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LEGISLATIVE HISTORY

Public Law 385--80th Congress

Chapter 516--1st Session

H. J. Res. 205

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DIGEST OF PUBLIC LAW 385

TONGASS NATIONAL FOREST TIMBER SALES. Authorizes the sale of timber and the patenting of sites for timber processing plants within the Tongass National Forest, Alaska, notwithstanding any claim to possessory rights for the land by Indians or others; and provides that all receipts from sales of timber or land will be held in a special account in the Treasury until the possessory rights to any of the land and timber sold are finally determined. The act neither affirms nor denies the validity to any possessory claims, but leaves this question for future determination by properly authorized agencies of the Government.

INDEX AND SUMMARY OF HISTORY ON H. J. RES. 205

May 21, 1947 H. J. Res. 205 was introduced by Rep. Hope and was referred to the House Committee on Agriculture. Print of the measure as introduced.

May 22, 1947 S. J. Res. 118 was introduced by Senator Butler and was referred to the Senate Committee on Public Lands. Print of the measure as introduced. (Companion bill).

May 26, 1947 Hearings: House, H. J. Res. 205. Resume of hearings.

July 3, 1947 Senate Committee reported S. J. Res. 118 with amendments. Senate Report 433. Print of the measure as reported.

July 9, 1947 The House Committee approved but did not actually report H. J. Res. 205.

July 10, 1947 House Committee reported H. J. Res. 205 with amendments. House Report 873. Print of the measure as reported.

July 15, 1947 H. J. Res. 205 was discussed in the House and passed as reported.

July 16, 1947 S. J. Res. 118 was discussed in the Senate and was passed over on objection.

H. J. Res. 205 was referred to the Senate and ordered to be placed on the calendar. Print of the bill as referred.

July 17, 1947 S. J. Res. 118 was discussed in the Senate and was passed over on objection.

July 23, 1947 H. J. Res. 205 was discussed in the Senate and was passed over on objection.

July 26, 1947 H. J. Res. 205 passed the Senate without amendment.

August 8, 1947 Approved. Public Law 385.

80TH CONGRESS
1ST SESSION

H. J. RES. 205

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1947

Mr. HOPE introduced the following joint resolution; which was referred to the
Committee on Agriculture

JOINT RESOLUTION

To authorize the Secretary of Agriculture to sell timber within
the Tongass National Forest.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That "possessory rights" as used in this resolution shall
4 mean all rights, if any should exist, which are based upon
5 aboriginal occupancy or title, or upon section 8 of the Act
6 of May 17, 1884 (23 Stat. 24), section 14 of the Act of
7 March 31, 1891 (26 Stat. 1095), or section 27 of the Act
8 of June 6, 1900 (31 Stat. 321), whether claimed by native
9 tribes, native villages, native individuals, or other persons,
10 and which have not been confirmed by patent or court
11 decision or included within any reservation.

1 SEC. 2. (a) The Secretary of Agriculture, in contracts
2 for the sale, or in the sale, of national forest timber under
3 the provisions of the Act of June 4, 1897 (30 Stat. 11, 35),
4 as amended, is authorized to include timber growing on any
5 vacant, unappropriated, and unpatented lands within the
6 exterior boundaries of the Tongass National Forest in Alaska,
7 notwithstanding any claim of possessory rights. All such
8 contracts and sales heretofore made are hereby validated.

9 (b) The Secretary of the Interior is authorized to
10 appraise and sell such vacant, unappropriated, and unpat-
11 ented lands, notwithstanding any claim of possessory rights,
12 within the exterior boundaries of the Tongass National
13 Forest as, in the opinion of the Secretary of the Interior and
14 the Secretary of Agriculture, are reasonably necessary in
15 connection with or for the processing of timber from lands
16 within such national forest, and upon such terms and
17 conditions as they may impose.

18 (c) The purchaser shall have and exercise his rights
19 under any patent issued or contract to sell or sale made
20 under this section free and clear of all claims based upon
21 possessory rights.

22 SEC. 3. (a) All receipts from the sale of timber or
23 from the sale of lands under section 2 of this resolution shall
24 be maintained in a special account in the Treasury until

1 the rights to the land and timber are finally determined by
2 or under future legislation.

3 (b) Nothing in this resolution shall be construed as
4 recognizing or denying the validity of any claims of posses-
5 sory rights to lands or timber within the exterior boundaries
6 of the Tongass National Forest.

JOINT RESOLUTION

To authorize the Secretary of Agriculture to sell timber within the Tongass National Forest.

By Mr. HOPE

MAY 21, 1947

Referred to the Committee on Agriculture

80TH CONGRESS
1ST SESSION

S. J. RES. 118

IN THE SENATE OF THE UNITED STATES

MAY 22 (legislative day, APRIL 21), 1947

Mr. BUTLER (by request) introduced the following joint resolution; which was read twice and referred to the Committee on Public Lands

JOINT RESOLUTION

To authorize the Secretary of Agriculture to sell timber within the Tongass National Forest.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That "possessory rights" as used in this joint resolution
4 shall mean all rights, if any should exist, which are based
5 upon aboriginal occupancy or title, or upon section 8 of
6 the Act of May 17, 1884 (23 Stat. 24), section 14 of
7 the Act of March 31, 1891 (26 Stat. 1095), or section 27
8 of the Act of June 6, 1900 (31 Stat. 321), whether
9 claimed by native tribes, native villages, native individuals,
10 or other persons, and which have not been confirmed by
11 patent or court decision or included within any reservation.

1 SEC. 2. (a) The Secretary of Agriculture, in contracts
2 for the sale, or in the sale, of national-forest timber under
3 the provisions of the Act of June 4, 1897 (30 Stat. 11,
4 35), as amended, is authorized to include timber growing
5 on any vacant, unappropriated, and unpatented lands within
6 the exterior boundaries of the Tongass National Forest in
7 Alaska, notwithstanding any claim of possessory rights.
8 All such contracts and sales heretofore made are hereby
9 validated.

10 (b) The Secretary of the Interior is authorized to
11 appraise and sell such vacant, unappropriated, and un-
12 patented lands, notwithstanding any claim of possessory
13 rights, within the exterior boundaries of the Tongass Na-
14 tional Forest as, in the opinion of the Secretary of the
15 Interior and the Secretary of Agriculture, are reasonably
16 necessary in connection with or for the processing of timber
17 from lands within such national forest, and upon such terms
18 and conditions as they may impose.

19 (c) The purchaser shall have and exercise his rights
20 under any patent issued or contract to sell or sale made under
21 this section free and clear of all claims based upon possessory
22 rights.

23 SEC. 3. (a) All receipts from the sale of timber or
24 from the sale of lands under section 2 of this joint resolution
25 shall be maintained in a special account in the Treasury

1 until the rights to the land and timber are finally determined
2 by or under future legislation.

3 (b) Nothing in this joint resolution shall be construed
4 as recognizing or denying the validity of any claims of
5 possessory rights to lands or timber within the exterior
6 boundaries of the Tongass National Forest.

JOINT RESOLUTION

To authorize the Secretary of Agriculture to
sell timber within the Tongass National
Forest.

By Mr. BUTLER

MAY 22 (legislative day, APRIL 21), 1947

Read twice and referred to the Committee on
Public Lands

TONGASS NATIONAL FOREST

HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES

EIGHTIETH CONGRESS

FIRST SESSION

ON

H. J. Resolution 205

TO AUTHORIZE THE SECRETARY OF AGRICULTURE
TO SELL TIMBER WITHIN THE TONGASS
NATIONAL FOREST

MAY 26; JUNE 14; JULY 1, 3, AND 9, 1947

Printed for the use of the Committee on Agriculture



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WASHINGTON : 1947

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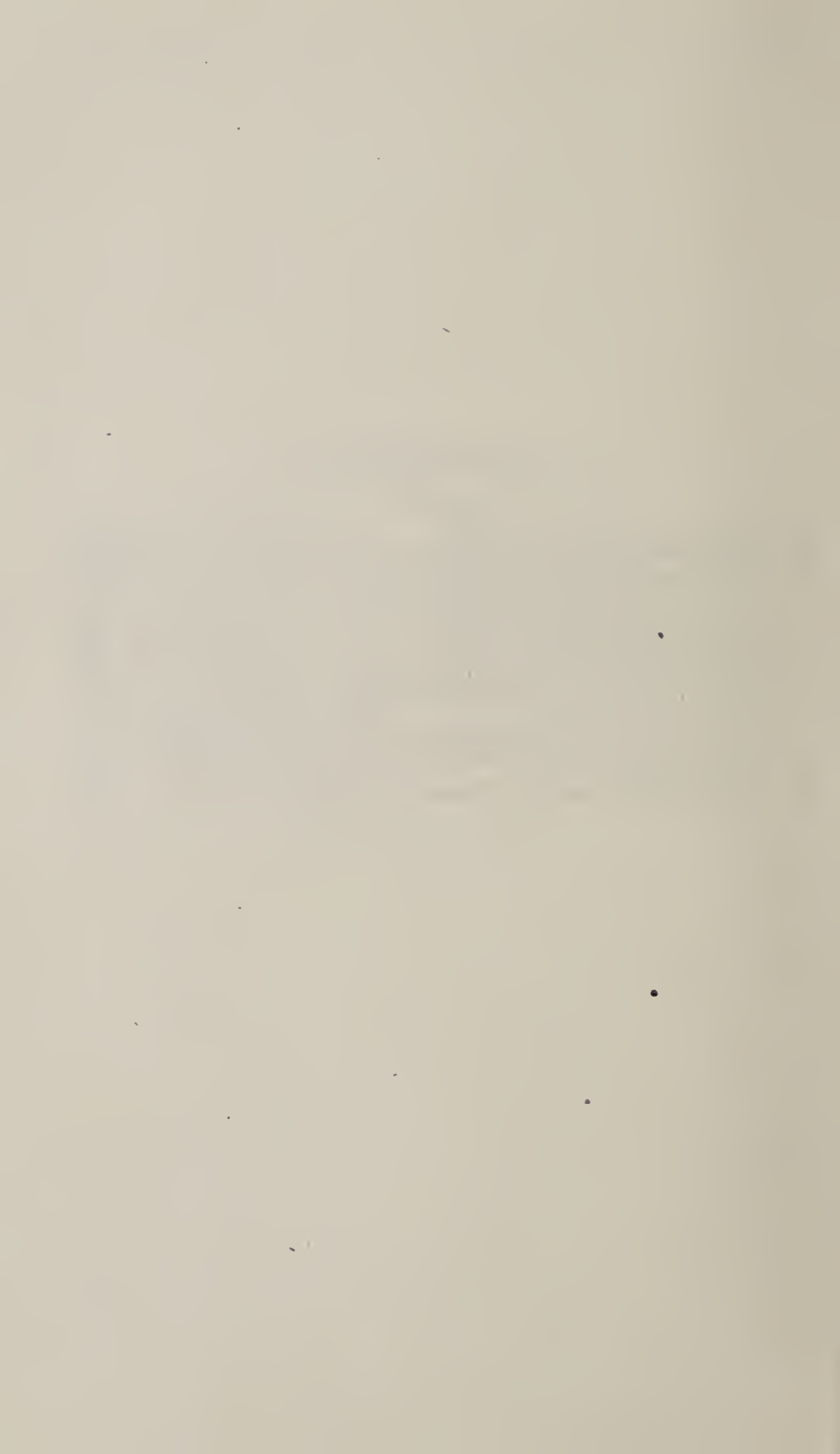
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TONGASS NATIONAL FOREST

MONDAY, MAY 26, 1947

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D. C.

The committee met at 10 a. m., Hon. Clifford R. Hope (chairman) presiding.

The CHAIRMAN. The committee will come to order. The purpose of calling the committee together this morning is to consider House Joint Resolution 205 which the Chair introduced on May 21. Ordinarily the committee does not meet on Monday, but this appears to be a matter which is something of an emergency; at least it is something that ought to be considered and passed in this session of Congress, if it has merit. I doubt very much if the committee will be able to finish this forenoon. We have a meeting on another subject tomorrow, and in view of the fact that the House will not be in session very long this afternoon we will resume again at 2 o'clock.

(H. J. Res. 205 is as follows:)

[H. J. Res. 205, 80th Cong., 1st sess.]

JOINT RESOLUTION To authorize the Secretary of Agriculture to sell timber within the Tongass National Forest

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That "possessory rights" as used in this resolution shall mean all rights, if any should exist, which are based upon aboriginal occupancy or title, or upon section 8 of the Act of May 17, 1884 (23 Stat. 24), section 14 of the Act of March 31, 1891 (26 Stat. 1095), or section 27 of the Act of June 6, 1900 (31 Stat. 321), whether claimed by native tribes, native villages, native individuals, or other persons, and which have not been confirmed by patent or court decision or included within any reservation.

SEC. 2. (a) The Secretary of Agriculture, in contracts for the sale, or in the sale, of national forest timber under the provisions of the Act of June 4, 1897 (30 Stat. 11, 35), as amended, is authorized to include timber growing on any vacant, unappropriated, and unpatented lands within the exterior boundaries of the Tongass National Forest in Alaska, notwithstanding any claim of possessory rights. All such contracts and sales heretofore made are hereby validated.

(b) The Secretary of the Interior is authorized to appraise and sell such vacant, unappropriated, and unpatented lands, notwithstanding any claim of possessory rights, within the exterior boundaries of the Tongass National Forest as, in the opinion of the Secretary of the Interior and the Secretary of Agriculture, are reasonably necessary in connection with or for the processing of timber from lands within such national forest, and upon such terms and conditions as they may impose.

(c) The purchaser shall have and exercise his rights under any patent issued or contract to sell or sale made under this section free and clear of all claims based upon possessory rights.

SEC. 3. (a) All receipts from the sale of timber or from the sale of lands under section 2 of this resolution shall be maintained in a special account in the Treasury until the rights to the land and timber are finally determined by or under future legislation.

(b) Nothing in this resolution shall be construed as recognizing or denying the validity of any claims of possessory rights to lands or timber within the exterior boundaries of the Tongass National Forest.

The CHAIRMAN. We have with us this morning Mr. Warner Gardner, Assistant Secretary, Interior Department, whom I am going to ask to outline the situation.

Before Mr. Gardner makes his statement I want to offer for the record a letter from the Secretary of the Interior, addressed to the Speaker of the House, calling attention to the need for this legislation.

(The letter referred to is as follows:)

THE SECRETARY OF THE INTERIOR,
Washington, May 16, 1947.

HON. JOSEPH W. MARTIN, Jr.,
Speaker of the House of Representatives.

MY DEAR MR. SPEAKER: I enclose a draft of a joint resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest, which I recommend be introduced and enacted.

The question of native land titles in the Territory of Alaska has remained, in the large, unresolved throughout the history of that Territory. It is not yet authoritatively settled whether the Alaskan Cession Treaty of 1867 (15 Stat. 539) preserved or extinguished, the native or aboriginal title to lands. If not extinguished, and if not subsequently abandoned, these rights exist in some form as a valid type of land ownership (*United States v. Santa Fe Pacific R. R. Co.* (314 U. S. 339), *Alcea Band of Tillamooks v. United States*, No. 26, October Term 1946, Supreme Court). Even if aboriginal title were extinguished by the 1867 treaty, native possessory rights may well remain, in one form or another, by virtue of legislative recognition. Thus, section 8 of the act of May 17, 1884 (23 Stat. 24), declared that "the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them." See, also, section 14 of the act of March 3, 1891 (26 Stat. 1095), and section 27 of the organic act of June 6, 1900 (31 Stat. 321).

The actual extent of native possessory rights has not yet been determined by the courts, nor has the Congress enacted any very clear definition of these rights. There has resulted a cloud upon land titles in Alaska, a tremendous uncertainty as to the amount and the boundaries of the public domain in that Territory, and a thorough-going confusion, on the part of the natives and whites alike, as to the lands which are or may be held under native title. The problem has been a troublesome one for many decades, and has become especially acute in recent years in southeastern Alaska.

The widely divergent views as to the existing law and as to the proper procedures to be followed make it entirely certain that any legislation looking to a general settlement of the problem would be controversial and slow of enactment. I do not, therefore, consider that any complete solution can immediately be found to one extremely important and urgent need.

For almost 25 years it has been the very strong desire of all persons concerned with the development of Alaska to put the rich timber resources of southeastern Alaska to use, upon a sustained yield basis, for the production of newsprint and other paper products. This potential development is now of great general interest because of the acute shortage of paper pulp. At one time or another various industrial interests have been close to action in concluding a contract with the Forest Service and making the large investment necessary to start such an enterprise. A variety of obstacles have in the past served, singly or in combination, to prevent the fruition of such a program. Only the cloud on the Forest Service title which is cast by the native claims remains as a formidable obstacle.

The prospective operators of the pulp mills are, quite naturally, unwilling to make the very heavy investment which is required to commence a pulp enter-

prise unless they have assurance that the Forest Service does in fact have control of the timber for which the contracts are made. In the present state of uncertainty as to the law and facts relating to native possessory rights in southeastern Alaska, no attorney would be willing, in a transaction of this magnitude, to assure the contractor or his underwriters that the Forest Service had a certainly good title to the timber within the boundaries of the Tongass National Forest. For, if the native title to a particular tract were a "valid, existing right" on September 10, 1907, when the Tongass National Forest was established, that tract is not included within the National Forest. In such cases, one relies upon the Government grant or contract at his peril (*United States v. Santa Fe Pacific R. R. Co.*, *supra*; *Cramer v. United States*, 261 U. S. 219; *Jones v. Meahan*, 175 U. S. 1).

It would take a considerable number of years to settle the matter by litigation, and the timber development of southeastern Alaska cannot wait that long. Legislative action, therefore, is necessary. Even with respect to legislative action, our exploratory conversations have shown with much clarity that the various interested agencies and groups cannot quickly agree on the method by which the matter is to be settled. Since the legislative session has drawn so near a close, it seems imperative to offer an interim solution, which will permit the timber development to go ahead, and to reserve for the more leisured consideration possible at the next session of the Congress the controversial question as to how the rights should be adjusted as between the natives and the United States.

The enclosed draft of a bill, accordingly, merely authorizes and validates the sale of national forest timber, and of the tracts of land necessary for constructing mill and town sites, notwithstanding that such timber or lands may be claimed by native tribes or villages or other persons.

All proceeds from the sale of timber and land would be held in a special account in the Treasury until the rights to the land and timber are finally determined by or under future legislation. It is the expectation that suitable legislation to settle the matter would be recommended to the Congress very early in its next session.

The bill, finally, makes plain that nothing in its provisions is designed to recognize or to deny the validity of any native or nonnative claims to lands or timber within the Tongass National Forest.

I have requested the Alaskan Native Service of this Department to explain the proposals to the native villages and I am hopeful that there will be a rather general acceptance of this interim arrangement by those villages as well as by the other interests affected.

Legislation of this nature will remove the major existing obstacle to the establishment of a pulp industry in southeastern Alaska. I have been advised that two of the five major pulp timber units in southeastern Alaska will be ready for development as soon as legislation of this nature should be enacted. I need not emphasize the benefits from the early establishment of this industry to the hard-pressed consumers of wood pulp, to the Territory of Alaska, and to the added national security which will come from a development of that Territory. I hope, therefore, that the Congress will find it possible to consider this proposed bill at the earliest possible moment.

The Bureau of the Budget has advised me that there is no objection to the presentation of this proposed legislation to the Congress.

Sincerely yours,

J. A. KRUG,
Secretary of the Interior.

The CHAIRMAN. Now, Mr. Gardner, we will be very glad to hear from you.

STATEMENT OF HON. WARNER GARDNER, ASSISTANT SECRETARY, DEPARTMENT OF THE INTERIOR

Mr. GARDNER. It is necessary, Mr. Chairman and gentlemen of the committee, to say very little, I believe, about the need for a pulp development in southeastern Alaska. As you doubtless know, south-

eastern Alaska is almost entirely embraced within the Tongass National Forest, under the control of the Forest Service of the Department of Agriculture. It is a remarkably rich timber area. The Forest Service has computed, according to my understanding, that it can produce, on a sustained-yield basis, indefinitely, about 800,000 tons of newsprint per year, which is about 20 percent of the present consumption in the United States. The benefit to the consumers of newsprint during this period, and one which would seem to continue for a long time to come, of getting the additional source of supply is very evident.

Newsprint has been and will continue to be extremely scarce. The Small Business Committee of the Senate has been exploring that matter extensively during this session, in an effort to do all it can to preserve the sources of supply for the small newspapers of this country.

Not only will this development be of benefit to the consumers of newsprint, but also to the Territory of Alaska. Each of the five timber units into which the Tongass National Forest has been divided by the Forest Service, will in itself serve to produce a town at least comparable with the largest now found in the Territory of Alaska. Even more important, it will offer on a sizable scale year-round employment to the residents of that Territory. They are now plagued by the fact that the greatest industry in the Territory, the salmon industry, is seasonal in nature. According to location, the salmon season will vary from 20 to 120 days in the year. A large number of the people of the Territory, and those who come into it, are dependent only upon the salmon industry for gainful employment. The timber industry in southeastern Alaska will be a year-round industry and offer employment through the entire year.

There is also an indirect but considerable benefit to the national security in the development of Alaskan Territory. It is a military axiom that a populated and developed Territory is far easier to defend than an unpopulated and barren territory. The building of roads and the development of sources of supply to move the equipment upon which the armed forces depend require, so far as we can do it, the development of Alaska.

We are at this moment, I am advised by the Forest Service, on the verge of writing at least two timber contracts, which will cover 40 percent of the area of the Tongass National Forest. This represents the virtual fruition of more than 25 years of work by the Forest Service to get the Tongass National Forest and its very rich timber resources developed. The first time it broke down with the onset of the depression in 1929 and 1930. By the time that period had passed, plans were resumed and negotiations well under way. The war period came on, and again it was called off. This is the third and the most promising effort of any of the three occasions to try to get the timber resources of southeastern Alaska developed.

There is at this point only one major obstacle to that development, which is the aboriginal claims, or the native possessory claims under subsequent statutes of Congress, as to land and therefore as to timber within the Tongass National Forest. That is an exceedingly complex legal problem, the answer to which is clear to no person. It is not

my intention so much to discuss the law as to discuss the areas where the legal problems exist, which I think will show the necessity of, first, enacting clarifying legislation, and, second, doing it on an interim basis, as is proposed in this bill.

Southeastern Alaska was originally held almost entirely by two native tribes, the Tlingits and Haidas. They had the Territory rather precisely divided among 13 villages in southeastern Alaska. The boundary of one would reach up to the boundary of the other, and there was a fairly general understanding as to the land ownership of the several villages.

In 1867 we acquired Alaska from Russia. The treaty may or may not have served to extinguish what we call the aboriginal, native title to the land. That has been in dispute a number of years and is still unsettled. Whether or not the treaty served to extinguish those rights, the native land rights continued in some form not clearly stated, and by no means unanimously agreed upon by the interested persons, by virtue of three acts of Congress: One in 1884, one in 1891, and one in 1900. Each served to preserve the native rights to lands occupied by the natives. The statutes however did not in any way explain what was meant by "native occupation," and so the major issues as to whether hunting lands, berry-picking lands, trapping lands, and so on, were occupied by the natives remains unsettled by the Congress.

For a good many generations, notwithstanding the uncertainty of the native claims of rights to the Alaska Territory, they have, I believe, in general been largely disregarded, except only for the lands which were actually improved with buildings and structures, or cultivated by the natives.

Our General Land Officer, now the Bureau of Land Management, had proceeded upon the theory if there were visual evidence of native use of the land they would consider it as native occupied. If there was no visual evidence, they would not. I think that has been, roughly, the approach taken by the residents of Alaska. There have been comparatively few instances of actual dispossession of the natives, although they are by no means unknown. There has been, however, a general disregard of any rights they may have to lands not visually occupied by the natives.

In the last 5 or 6 years there have been decisions of the Supreme Court dealing with native claims in the continental United States which, if applicable to Alaska, would indicate that the native claims considerably exceed the customary practice in the Territory in dealing with the territory originally held by the natives. One decision, in 1940 or 1941, *United States v. Santa Fe Pacific Railroad Co.*, in 314 U. S. 339, held that native claims to lands which they used for hunting, in other words, a shifting use, covering large areas of land, were valid possessory rights, and that a patent of the United States to the Santa Fe Pacific Railroad, excepting valid rights in existence at the time of the patent, did not convey the land, and that it remained in native possession.

Another decision—I will mention only two which I believe crystallize the problem is that of last fall, the decision called the *Aleca Band of Tillamooks v. United States*. There the Supreme Court held that irrespective of formal governmental recognition of native claims,

whether by treaty or by statute, those claims persisted and were valid, and if the Government disposed of native lands held simply by aboriginal native occupation it must pay to the natives the value of the land, and that their titles are good without regard to formal congressional action.

The CHAIRMAN. Mr. Gardner, may the Chair interrupt you?

Mr. GARDNER. I will be delighted to have you interrupt me.

The CHAIRMAN. I just want to make a statement at this time. I might ask you if you would prefer to make a complete statement now and not be interrupted for questions until afterwards?

Mr. GARDNER. Whatever suits the convenience of the committee. It makes no difference to me.

The CHAIRMAN. If you have no objection, perhaps the Members would want to ask questions as you go along.

The Chair will have to leave at this time, in order to make an appearance before the Rules Committee and will turn the matter over to Mr. Johnson as acting chairman.

Mr. JOHNSON. All right, Mr. Gardner, you may proceed. May I ask you what is the extent of this area in acres?

Mr. GARDNER. It measures, I believe, about 1,500,000 acres. Mr. Heintzman, is that about right?

Mr. HEINTZLEMAN. Sixteen million acres.

Mr. GARDNER. My mathematics are exceedingly poor. It is 16,000,000 acres, Mr. Congressman.

Returning to this thumbnail sketch of the troubled waters of the law, if these decisions of the Supreme Court which are applicable to the continental United States apply to Alaska, then the natives have substantial and probably rather extensive claims to the land embraced within the Tongass National Forest.

When that forest was created in the early years of this century it was created as are national forests, subject to valid existing rights. If the native claims were good, if they were valid existing rights, then the land covered by those claims was not within the Tongass National Forest. How extensive the native claims would be in that case is rather difficult to say, because—even under the decisions applicable to the continental United States—to the extent that the natives have abandoned the lands which they once held, those revert to the public domain. That principle is of only limited utility in bringing clarification to the problem, since, so far as I know, nobody knows what constitutes abandonment, whether a less frequent use of the land for hunting and trapping is abandonment or whether you must completely stop using it.

Mr. CLEVENGER. Are these claims tribal or individual claims? Are titles held by individuals, or are they just a sort of big tribal claims?

Mr. GARDNER. You cannot touch a single point in this question where you can get a definite answer on the law. We do not now know whether, if there be native rights to these lands, whether they are held by the two tribes, the Tlingits and Haidas, whether they are held by the villages—there are 11 villages in the Tongass National Forest—or whether they are held by the clans which are subdivisions in effect of both of the villages and tribes, or whether they are held by the individuals in a sort of aggregate individual ownership.

Mr. CLEVINGER. Do they have registered titles on behalf of the individuals, or do they have patents from the United States at all?

Mr. GARDNER. There is no patented land or no registered title on behalf of the individuals. Many individual natives have undoubtedly acquired land under the general land laws, but the native land problem we are talking about is one which is independent of land patents of the Government.

Mr. CLEVINGER. The population in this area is about how extensive?

Mr. GARDNER. There are about 35,000 natives and about, I would guess, 45,000 to 50,000 white settlers in southeastern Alaska.

Mr. HEINTZLEMAN. That is Alaska as a whole.

Mr. GARDNER. Again my facts are shaky. I am told those figures are more applicable to Alaska as a whole.

Mr. HEINTZLEMAN. There are about 6,500 Indians. In southern Alaska there are between 25,000 and 30,000 total population.

Mr. CLEVINGER. That covers cannery towns and other developments as well?

Mr. HEINTZLEMAN. Yes, sir.

Mr. GARDNER. Including one sizable town of Juneau and a number of smaller towns.

Mr. HILL. Just a question. The towns are not within the national forest boundary?

Mr. GARDNER. The actual towns are outside of the forest area.

Mr. HILL. The question of Mr. Clevenger confuses me all the more. I am sure he meant how many people lived in the forest land in the territory that this affects. That does not include the towns, does it?

Mr. GARDNER. That does not include the towns.

Mr. HEINTZLEMAN. There are very few natives living actually on forest land or inside the national forest. All of these villages are within the exterior boundary of this large forest of 16,000,000 acres.

Mr. HILL. How many people live within the boundary of this forest land that you are talking about, that actually live in it?

Mr. HEINTZLEMAN. The towns have been eliminated from the national forest, just the municipalities. The lines of the forest in many cases come right to the boundaries of the towns. The towns themselves have been eliminated.

Mr. HILL. How many people live in the forest?

Mr. HEINTZLEMAN. Very few.

Mr. CLEVINGER. Juneau is your Territorial capital. Is it in the neighborhood of this forest?

Mr. GARDNER. The forest will go up close to the town limit, probably actually to the town limit. If you want a very rough estimate of the number of people living in the forest, I suppose it is a few hundred probably not more than 1,000.

Mr. BRAMLETT. Are you going to cover the status of the native claims if this bill goes through?

Mr. GARDNER. Yes; I was just going to cover that aspect of it. I was going to spend a moment, if I could, on the effort, so far abortive, which the Department of the Interior made in an attempt to bring a measure of clarification to this exceedingly difficult problem. In 1944-45 the Department held hearings with respect to three of the

native villages, Haidabang, Klawak, and Kake. They determined, as the result of those hearings, that upon application of the standards found by the Supreme Court to apply in the continental United States, about 10 percent of the aboriginal area, the lands claimed to have been occupied by those three villages, remained in native occupation. At that time it was intended to proceed with hearings with respect to the other village in southeastern Alaska. We have halted that program because of the overriding difficulty that the hearings result, in effect, in merely advisory opinions which are not binding upon the natives, do not serve to dispose of their claims outside the area found by the Department to be still in their occupation, and not binding on third persons. As a result it served probably to confuse the situation as much as to clarify it, since the natives naturally believed that after the Government Department got through with its hearing they have got good title to the land and it was determined to remain in their occupation, when in point of fact they haven't, because we have no statutory authority to dispose of that question.

There was, in addition, by no means a universal satisfaction with either the procedures or the results reached in those hearings.

We took another step last summer and had an investigation made to attempt to find out, under the standards applicable to the continental United States, whether this area could probably be found still in native occupation. One anthropologist and one man from the Indian Office made a rather hasty survey, and in 2 months' time they could do no more than scratch the surface of the exceedingly vexing issues involved. Their survey would suggest, at least, that somewhere in the neighborhood of 10 to 15 percent of the territory of southeastern Alaska, on the standards applicable to the continental United States would be found to remain in native occupation. The result varied remarkably according to the location of the village. The native village which was once located where the city of Juneau is has exceedingly little land left, applying the standards, and so, too, have the villages, or the village located where the town of Ketchikan is. As to another native village, Klukwan in the northeastern corner, they found about half of the original territory would still, by continental law, be found to remain in native possession.

None of those steps could really clarify the problem, or do more than to indicate its magnitude, let alone bringing order out of an exceedingly difficult and controversial legal question. The result I think can fairly be described as unmitigated chaos in land titles and land claims.

I think in southeastern Alaska nobody has a clear title to land, unless it derives through a patent from the Government, notwithstanding that the Congress has passed three statutes intending to confirm what you might call customary rights to land based upon occupation.

The Forest Service is uncertain as to the amount of land included in the Tongass National Forest, since it cannot know the validity of the native claims. The natives themselves have no idea whether they own, to take the two extremes, all of southeastern Alaska or none of it. I am inclined to think, by application of the standards found in

the continental United States and relying upon a rather hasty survey, they would eventually be found to have possessory rights to between 10 and 15 percent of the Territory, but that is merely a guess. I am confident that the natives inevitably exaggerate the amount of land to which they have valid claims. If your village once owned, we will say, 1,500,000 acres, and if your tribal tradition is that you used that land, and if nothing has clearly happened to show it is no longer used, then it is exceedingly hard to explain to the natives that simply through the operation of the nonuse law the lands have left their possession. Other lawyers, for whose ability I have great respect, are of the view that the natives own none of the lands in southeastern Alaska except that actually occupied by their town sites. They accept the view that the treaty of 1867 excluded aboriginal rights and that the subsequent statutes of this Congress preserving native occupation reach only to land physically improved by the natives.

That, I think, Mr. Chairman and gentlemen of the committee, is enough to indicate the contours of this exceedingly unsettled question of law.

Mr. JOHNSON. Mr. Gardner, I would like to ask you a question.

Mr. GARDNER. Yes, Mr. Johnson.

Mr. JOHNSON. Do these people have any industry there, any timber, or anything like that, or do they just exist by trapping and selling fur?

Mr. GARDNER. It varies a little bit according to location, sir. The coastal villages, by and large, make their living as their fathers did, from the sea, with the variation that now they are seine fishermen or cannery workers, and they have become largely integrated with the salmon-canning industry. They still, however, obtain supplementary economic benefit from the uplands lying back of the coastal areas. They pick up berries; they hunt animals; they trap for fur; they do a little log cutting for their own use.

As to the extent to which they have to use the land to preserve their possessory rights, assuming they have not been extinguished, no one can say how actively you have to hunt in the Territory, or how many animals you have to trap, or how many berries you have to pick, even to meet the law in the continental United States. When you don't know that the standards of the continental United States apply to Alaska you have confusion compounded, because, assuming they do, you do not know the factual extent to which the native use would conform to the rather broad principles which have been stated with respect to the continental United States.

That is with respect to the coastal villages. The inland villages, such as Klukwon, for example, which is in the northeastern corner, subsist very much more largely upon hunting, trapping, and land uses rather than water uses to sustain their economy. Any statement with respect to native claims in Alaska is a guess, and it is certain to be contradicted by every other person within hearing who forms his own opinion. My guess would be that the inland villages, because of the nature of their economy, have a little stronger, more solid history of land use to justify a claim of virtual ownership, if the legal standards of the continental United States are applicable.

Mr. JOHNSON. I would like to announce at this time that Mr. Andresen is acting chairman. He is next in line as chairman and I will turn the chair over to Mr. Andresen.

Mr. ANDRESEN. I would like to ask you, Mr. Gardner, are there any cases in court now where there is a question over the title of the land involved?

Mr. GARDNER. Yes, sir; there is one case which has been filed in the Court of Claims. The petition has not yet been actually filed, but ever since 1935 there has been a jurisdictional act authorizing the Tlingits and Haidas to bring suit against the Government for the value of their property which has been taken by the United States. One difficulty with that suit is whether or not, first, they own the land in question, and, second, whether it has been taken by the United States or whether they still own it. That suit, however, is authorized, and I am informed that the petition will be filed within a matter of weeks or months.

There is another suit relating to the native village at Juneau, which has been to the circuit court of appeals, for the Ninth Circuit, and has now gone back, I believe, or will go back to the district court. In that case the War Department condemned land in order to build a wharf at Juneau during the war. They went over tidelands in front of a native village, on the outskirts of Juneau. The United States took the position that there was no compensation payable and the natives said they were to be compensated, and again you get a fine example of the confusion that surrounds these legal questions, because the ninth circuit, when the case went up to them—it arose on a demurrer—managed to rule against both parties. It held, in an opinion, that the act of 1867 had extinguished native title. It turned, however, to the acts of Congress which had been passed beginning in 1884 preserving native rights to lands occupied or claimed by them, and said that their rights persisted under that even though they are tidelands, and that therefore the United States must pay compensation. The natives were displeased by the ruling that the treaty of 1867 did not apply and would like to take the case to the Supreme Court, which is the only place that that issue can be settled, but they had the misfortune of winning the case.

Mr. ANDRESEN. That treaty was, of course, when Alaska was acquired.

Mr. GARDNER. Yes, sir.

Mr. ANDRESEN. And that recognized any title or right that any of the occupants had on the land at that time.

Mr. GARDNER. The treaty, if I may paraphrase it from memory, sir, preserved the rights of the Russian citizens, but said that the rights of the uncivilized tribes would be dealt with according to the custom in the United States. That is an exceedingly rough paraphrase. I have not looked at it for many weeks. The effect of it is that they have assimilated into the body of law dealing with continental Indians, the Alaskan natives, and alternatively, by recognizing the white race, they left less certain the native rights. I believe there is also a provision in that treaty to the effect that the Congress—I am afraid I cannot go much further in recalling that treaty.

Mr. ANDRESEN. We had certain treaties with Indians.

Mr. GARDNER. We never had any treaty with the Alaskan natives.

Mr. ANDRESEN. We had in the United States, of course, in the early days.

Mr. GARDNER. With virtually every tribe; yes, sir.

Mr. ANDRESEN. And they did recognize land rights and set aside certain lands for the Indians.

Mr. GARDNER. If that had been done in Alaska we would have been in a much better position today, instead of simply allowing the situation to coast along, and the trouble is we get these difficulties accentuated.

Mr. ANDRESEN. A very decided portion, or a good portion, of this land has never been patented or is not claimed by anyone excepting the Government; is that right?

Mr. GARDNER. The natives on the one hand and the Government on the other hand are, in general, the chief opposing claimants.

Mr. ANDRESEN. Section 2 of the bill provides that the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, may dispose of this unpatented land. Now we have certain homestead laws in the continental United States where a person can file on the lands and acquire title by performing certain acts. Would those laws be applicable to the situation in Alaska?

Mr. GARDNER. They are not precisely applicable to the Alaskan situation. We have attempted, I believe successfully, to guard against any interference with rights based upon the ordinary land laws. You notice section 1 defines "possessory rights" to include only aboriginal rights, if any should exist, and rights based on these three statutes which preserve the right to lands actually occupied either by natives or by white persons, and section 2 authorizes the Secretary of Agriculture to sell timber, and the Secretary of the Interior to sell town and mill sites, without regard to possessory rights, that is rights otherwise founded on that covered by section 2. This, in effect, quiets claims based upon possessory rights but upon nothing else.

Mr. ANDRESEN. How extensive are those lands, and what is the acreage, and what are the resources on the lands?

Mr. GARDNER. The entire area of the Tongass National Forest is 15,000,000 acres. The native claims if they reach right back to the territory originally occupied by the native villages would cover about 12,000,000 to 13,000,000 of those 15,000,000 acres. In their narrowest confines, which I think may be roughly assumed to be the result of the Department of the Interior's investigation last summer, in which they attempted to apply the standards of the continental United States to Alaska, they would probably amount to in the neighborhood of 2,000,000 acres still in native possession. That is a guess based upon a 2 months' survey last summer.

Mr. ANDRESEN. Are those 2,000,000 acres virgin timber?

Mr. GARDNER. The resources of the area, Mr. Andresen, are almost overwhelmingly rich timber resources. As far as the natives are concerned, there are secondary resources, and probably the more valuable of them in terms of wildlife and berries which grow on the land. So far as the industrial white economy is concerned, it is at this point impossible to predict the mineral resources that lie under this land. We do know there has been a sizable gold development in years past

in the neighborhood of Juneau. We know also there are valuable limestone deposits in southeastern Alaska. The rest of it I am not prepared to discuss, and I doubt whether anyone knows too much about it.

Mr. ANDRESEN. What I am getting at is this: Will the Secretary of the Interior have any particular yardstick or formula to go by in fixing the value on this land when it is sold? What will be the procedure?

Mr. GARDNER. He will sell it. The land which the Secretary of the Interior would sell under this bill is confined to the rather restricted areas necessary for the mill site for the timber operator, and the town site. It would be necessary to develop new towns with respect to each of these timber units, and his yardstick would simply be the current value of the land in the area selected. That would vary, I should arbitrarily guess, from 50 cents to \$5 an acre.

Mr. ANDRESEN. With the timber on it?

Mr. GARDNER. With the timber on it. The Secretary, mind you, would not be selling the timber as such, he would be selling the land necessary to erect the pulp mill and the land necessary to locate the town.

Mr. ANDRESEN. But not the timberland itself?

Mr. GARDNER. The Secretary of Agriculture under this bill, and under the regular national forest legislation, will sell the timber under contract which will assure a sustained yield. That is, he will sell a block of timber for one 5-year period, another block, and then another block, and by the time the timber unit has been cut through, the first block will grow up again.

Mr. ANDRESEN. Are there some individuals or concerns now who are anxious to purchase this timberland?

Mr. GARDNER. There are two concerns who, according to my understanding, are ready to start on the very sizable job which is necessary to put a timber mill into southeastern Alaska, as soon as the question of the native claims can be cleared away. It is necessary to clear that away because of the following factors: First, the investment which is necessary in handling the large tract, ranging from \$25,000,000 to \$40,000,000 for each timber mill. Second, to make that investment they have to be sure that the Forest Service really has the timber which it is contracting to sell, and it will not be upset by any subsequent decision holding that it is in fact native-owned rather than Forest Service owned, with respect to any substantial acreage.

Mr. CLEVENGER. Mr. Chairman.

Mr. ANDRESEN. Mr. Clevenger.

Mr. CLEVENGER. Mr. Gardner, you are perhaps familiar with the Menominee Reservation in Wisconsin?

Mr. GARDNER. In a general way.

Mr. CLEVENGER. I have been there many times and there is a sustained timber operation, about the only one I am familiar with on Government land. I have seen some developments that were rather painful to me to visit, but on that reservation they have been operating mills for years, they have been cutting timber and have a continuing operation.

Mr. GARDNER. We are rather proud of the Menominee Indian Reservation.

Mr. CLEVENGER. I should not like to be a party to opening up Alaska to the type of exploitation I have seen in some timber areas, and I am just wondering if you can think of some machinery by which you could develop our forest resources without devastating the country.

Mr. GARDNER. May I make two answers to your question?

Mr. CLEVENGER. Yes.

Mr. GARDNER. One is, so far as preserving the forest and avoiding this major tragedy of the Nation, of these large areas of cut-over land which are completely ruined, which are devastated areas, the Forest Service has always operated on a sustained-yield basis. We find the unhappy examples of timber exploitation never occur in the national forest. The subsequent witness of the Department of Agriculture, the Forest Service, will explain it in more detail than I am able to.

Mr. CLEVENGER. Does it cover fir?

Mr. GARDNER. Yes.

Mr. CLEVENGER. And spruce?

Mr. GARDNER. Yes, sir. The second answer I want to make is if we were sure, or if we had any way of knowing that this territory was native owned, we in the Interior Department would be doing everything we could to attempt to duplicate an operation similar to that in the Menominee Reservation, but unfortunately we have no more idea than anyone else does as to who does own the land in question, and what areas, if any, are in native possessory rights, or subject to native possessory rights. We do have, to round out the picture, a power under the act of 1936 to create Indian reservations. We are exceedingly reluctant to do so in southeastern Alaska. Although the Department's thinking on that changes from time to time, as is always the case with these land problems in southeastern Alaska, at the moment we are exceedingly reluctant to do so, because the natives in southeastern Alaska have gone a long way toward complete assimilation with the white man's economy. The actual reservations would not interfere with the assimilation, but the connotations of the reservations are, on the one hand, so distasteful to the white residents of Alaska that we are reluctant to move in that direction, especially since to a sizable proportion of the natives, too, this carries distasteful connotations. Practically the only real objection there is to the reservation as a means to clarify the land-title situation is it would mean that the laws of the future State of Alaska would be inapplicable within that Territory, including the tax laws, and that they would constitute Federal islands within the general territory of the State.

Now with respect to many of the natives of Alaska, particularly those in the interior of Alaska, in the neighborhood of the Brook Ranges and some of those along the Arctic coast, I imagine reservations would be urgently necessary to protect them when the white man's economy comes in closer touch with them. We think in general that is not necessary in southeastern Alaska, although I do not wish to make any generalization about a situation so various as found with

the 13 native villages in southeastern Alaska, 11 of which are in the Tongass National Forest.

Mr. CLEVINGER. My questions were prompted by the feeling I had that development is one thing and exploitation is another. I do not want to see some selfish Chicago interest exploit or plunder the Territory.

Mr. GARDNER. I believe the Forest Service, Mr. Clevenger, will be able to assure you that this is an orderly development—they have at least so assured us—and we are entirely satisfied.

Mr. ANDRESEN. There would not be anything like that in Alaska, would there?

Mr. GARDNER. No. You have very closely regulated operations under the Forest Service. Every contract, for example, calls for a detailed supervision of the areas to be cut. It requires protection first on the thoroughfares into the Territory so you do not have the roads themselves running through every temporarily cut-over land.

Mr. ANDRESEN. In the sale of this land would there be the customary reservation as to mineral rights?

Mr. GARDNER. The situation is a little complicated, because the mineral rights are not within the national forest; they remain in the public domain and are subject to the regular mineral laws of the United States. In other words, let us take the improbable contingency that someone found oil in the Tongass National Forest. That oil would be subject to leasing by the Department of the Interior under the Mineral Leasing Act. So, too, the regular mining claims supply to national forest lands. The national forest is a reservation on the surface, that is the timber, and not on the subsurface.

Mr. ANDRESEN. Even though the actual sale of the land would be made?

Mr. GARDNER. Excluding it from the national forest you mean?

Mr. ANDRESEN. Section 2 provides for the sale of this land.

Mr. GARDNER. Section 2, sir, provides only, in terms of the legislation, for the sale of such land as is reasonably necessary in connection with or for the processing of timber from lands, which is intended to include, in a shorter compass than otherwise would have been possible, the small areas which would be necessary (1) for the mill site, (2) for the town site, and (3), such other much smaller areas—I would imagine an acre or two in extent—as might be necessary, and I know of no case in which it would actually be necessary, for the operator to put in permanent improvements. Naturally if the operator is putting in a \$25,000,000 investment in mills and towns he would like to have title to the land to assure him permanence of his investment. Section 2 is designed simply to make the smaller areas of land available for the pulp operator.

Mr. HILL. You are an attorney, are you not?

Mr. GARDNER. I have been, sir, and I hope to be again.

Mr. HILL. Then maybe you can enlighten some of the attorneys on this committee. I happen to be a hardware merchant. The last line of section 2, the first paragraph, "All such contracts and sales heretofore made are hereby validated," and the last statement in section 3, "Nothing in this resolution shall be construed as recognizing or denying the validity of any claims of possessory rights to lands

or timber within the exterior boundaries of the Tongas National Forest," and the first paragraph of section 3, seems to me to be the finest piece of legislation that can be passed for these attorneys. I suggest if we do pass this bill that all of these attorneys form an organization in Juneau and hang out their shingle. You say, "All such contracts and sales heretofore made are hereby validated," and then you drop down in section 3 and say we will put the money in a pot until all the suits are settled and then we will determine how the money should be paid out, and then you, of course, include future legislation. It seems to me you mixed this up as much as you possibly could under any circumstances.

Mr. GARDNER. May I reply seriatim, Mr. Clevenger, and explain what is going through our minds on this? First, you are going to find the attorneys are going to have a field day of claims, aboriginal claims, whatever is done; that there is going to be unavoidable litigation. Second, in validating prior contracts we hope to accomplish this, that notwithstanding the absence of any large-scale timber development in southeastern Alaska there have been a number of minor local contracts to supply local sawmill operators which are subject to the same defect as the much larger transactions which we are discussing now. The defect has not prevented the sale of a local cutting, because the investment was small and the man simply went ahead and relied on the fact that the Forest Service appeared to have title and was willing to sell it to him.

Mr. HILL. You validate a lot of these sales, whether they were made honestly or whether they were not, or whether they took a man out and showed him that patch of timber and when they wrote the contract they wrote in another patch of timber. Then you come along and ask me to be a party to a piece of legislation that would make legal such deals.

Mr. GARDNER. I am sure it is unnecessary to explain to a member of the Committee on Agriculture that the Forest Service or the Department of Agriculture are in an entirely different category from the promoter.

Mr. HILL. You mean you do not put anything over on the Department of Agriculture. I have sat in this committee and I have seen them do that very thing, so I still have my suspicion.

Mr. GARDNER. I know only the situation of the Tongass National Forest, plus the general reputation of the Forest Service. As to the first I will state unequivocally that no one has been subjected to sharp practice. As to the second I will say it is exceedingly unlikely. However, passing that and turning to the field of recognizing or denying the validity of the claims, I would like to explain that in some detail, because that is the reason why we are presenting this interim legislation to the Congress.

Mr. HILL. Why don't you put legitimate claims in there instead of validating all claims?

Mr. GARDNER. We validate nothing, sir, except the sale of timber from the land within the Tongass National Forest the contract for the sale of which has been made by the National Forest Service.

Mr. HILL. Suppose we show, from subsequent information, that the National Forest Service had no title to the land at all when they sold it.

Mr. GARDNER. I hope, sir, your experience with attorneys will not permanently prejudice you against an attempt to get out of an impossible situation, the situation which we are now in. I would like to explain the precise nature of that impossible situation. Ever since last January I have been conferring with a large number of Government agencies and interested people, the Forest Service, the Department of Agriculture, the Bureau of the Budget, the Indian Office, the Fish and Wildlife Service, the Bureau of Land Management, as well as attorneys for the Department of the Interior, as well as attorneys for the native villages, as well as attorneys for the pulp mill owners, attempting to find some way to get out of this thoroughly impossible situation. At these conferences everyone agreed, without exception, that it is a matter of utmost urgency and importance to start a pulp mill development in southeastern Alaska. Everyone agrees on that. Everyone agrees that that can be done only by authorizing the National Forest Service to sell this timber, and in some fashion to work out a means by which the existence of the native claims can be determined both as to whether or not any exist which are valid, and if they do exist, what lands they cover. We have tried about 8 or 10 separate approaches to the problem. Sometimes as many as two people would agree, but more often they would not. We have discussed 17 drafts of legislation, since all agreed it can be done only by legislation. At one time they got as high as three or four people to agree, and at other times they all disagreed. Time is passing. This may well be the last opportunity we have to clear up the situation sufficiently for the pulp industry to get started there, to the immense benefit of everyone.

Mr. GOFF. Mr. Chairman, I have a question on that point.

Mr. HILL. I have some other questions.

Mr. GOFF. Will the gentleman yield?

Mr. HILL. Yes; I will yield.

Mr. GOFF. In the first place I want to say I am an attorney, and I have spent all my adult life practicing law, I trust honorably, and I am very proud of that fact. As to any generalities about attorneys, I do not take offense, but I certainly am not going to sit here and have aspersions cast on a profession of which I happen to be a proud member. I notice the people who cuss the attorneys most are the ones who, when they get into trouble, place every confidence in these same attorneys they take pleasure in cussing.

Now it seems to me, from looking at this matter before us, that I must congratulate Mr. Hill on the fact that he was so quick to seize upon this point relating to validation. Isn't it true, Mr. Gardner, that this is a validation of these little contracts that have been made, and under section 3 all receipts from the sale of timber or lands must be preserved in a trust fund, in which you include not only the future sales but the sales that have been made, so that while each sale would be validated to protect the purchaser, still all the receipts coming in would be held in trust?

Mr. GARDNER. Yes, sir.

Mr. GOFF. That would take care of the situation, as I see it. It would thus be merely a conditional validation, merely to recognize the sales that have been made and hold the money until the determination by the court of court actions that are expected, whether the Indians own the land as finally determined, or whether the title is in the United States. That is about all we can do in order that society may progress. It is a procedure often used to take the proceeds and hold them until the court makes the determination. So it would seem to me you have tried to arrange an equitable way out of a bad situation.

Mr. ANDRESEN. The only danger, as I see it, you might not collect enough money for that trust fund to settle the claims when they are actually determined.

Mr. GARDNER. If that is the case, sir, and it may well be the case, there are ample remedies already on the books to recover a money judgment for lands which the United States has taken. That could arise in either of two ways. Even without any legislation the Court of Claims has jurisdiction under the fifth amendment to the Constitution.

Mr. ANDRESEN. It would be very unfortunate if you could not get enough money from the sale of the timber to take care of the claims.

Mr. HILL. Mr. Chairman, to clear up my first question, Mr. Goff, the gentleman from Idaho, knows I had no reference to the attorneys on this committee. The chairman said we had enough money there to take care of the attorneys' fees, the attorneys that would bring the suits.

Mr. ANDRESEN. I did not say that.

Mr. HILL. You did not say attorneys but you said there was money in there to provide for them. That has always been my impression, that the attorney might be paid, and who does not pay them—well, I would just pass to that.

Mr. GRANGER. Will the gentleman yield?

Mr. HILL. I will yield.

Mr. GRANGER. You know very well all the claims made by the attorneys for the Indians are for the benefit of the Indians, do you not?

Mr. HILL. How is that?

Mr. GRANGER. All the claims that are made by the attorneys for the Indians are always in the interest of the Indians, are they not?

Mr. HILL. I will say to the gentleman from Utah that I served on Indian Affairs for 2 years, and I noticed it was so bad in the past, that they had to put a little clause in that this was a recoverable fund, that the lawyer could get just so much. Under this standard clause that was put in the lawyer received a certain fee and no more. Am I not correct in that?

Mr. ANDRESEN. That has been the practice for some time.

Mr. HILL. Let us go back to what I want to ask you now. In section 2 you do two things that bother me. First of all you say the "Secretary of Agriculture" and then you drop down and you say the "Secretary of the Interior." Now the question that comes to my mind is this: You say this is the "Tongass National Forest in Alaska." It has always been my impression that the national forests are under the Department of Agriculture. Am I correct?

Mr. GARDNER. You are correct, sir, except they are under the Department of Agriculture for the administration of the timber resources. If the Secretary of Agriculture had power to dispose of land within the national forest it would be unnecessary to bring the Secretary of the Interior in.

Mr. HILL. What brings the Secretary of the Interior in?

Mr. GARDNER. I said if the Secretary of Agriculture had power under the national-forest legislation to dispose of the land within the national forest, it would be enough to authorize him to make the sale of the land.

Mr. HILL. And he does not have such power?

Mr. GARDNER. He does not have such power. Lands within the national forest as well as all public lands are disposed of only by the Secretary of the Interior.

Mr. HILL. To clear this up in my mind, suppose in this timberland that you lease to these folks and you see that it is properly cut, I have been trying to find some minerals and all of a sudden I find a gold strike. Now do I go into the Department of Agriculture to get the right to develop that particular mine or must I go to the Department of the Interior.

Mr. GARDNER. As a matter of fact you would not have to go to either, under the mining laws.

Mr. HILL. I could not go on the land if I did not have permission.

Mr. GARDNER. It depends on the type of mineral.

Mr. HILL. Suppose it was gold?

Mr. GARDNER. If it were gold—I regret this is the case because it makes a disorderly system—if it were gold you file the claim in the office of the registrar in Alaska, and I believe it is even in the district court. You say, “I stake out a gold claim here,” and if you do not develop it we might stop you.

Mr. HILL. What if it is some other type of mineral?

Mr. GARDNER. If it is a mineral covered by the Mineral Leasing Act, which is oil, gas, phosphate—there are seven of them——

Mr. HILL. What about uranium?

Mr. GARDNER. Under the Atomic Energy Act, you cannot take that out whether it is within or without the national forest, unless you go to the Atomic Energy Commission, and I doubt if they would tell you to go ahead, sir.

Mr. ANDRESEN. Just one other point I want information on. Would that be contrary to the interest of the paper mills in Canada?

Mr. GARDNER. How is that?

Mr. ANDRESEN. Would that be contrary to the administration's good-neighbor policy with Canada?

Mr. GARDNER. No, sir; not at all. Our good-neighbor policy with Canada remains untouched and we would continue to consume as much Canadian newsprint as we can get in. As you know, there is a very critical newsprint shortage at this time.. The Canadian sources would be supplemented by the Alaskan sources.

Mr. ANDRESEN. Of course in time we will have enough timber up there so we could supplant the newsprint we get from Canada.

Mr. GARDNER. I believe, sir, that all predictions on the future consumption of newsprint indicate that not only the Canadian but the

Alaskan and Swedish sources will be necessary. In any event, I am sure, Mr. Andresen, we would not wish to stop the development of a resource necessary for the development of our own Territory of Alaska because of a fear that some time in the future it might be a competitive deterrent to the Canadian industry. I do not believe our good-neighbor policy has ever been intended to reach so far.

Mr. ANDRESEN. There has been no protest filed by the Canadian Ambassador against this legislation?

Mr. GARDNER. No, no, sir. The only word from Canada I believe has been an offer to put up power sites to make the development of Vancouver Island cheaper than Alaska would be.

Mr. CLEVINGER. So far, Mr. Gardner, nothing has been said about the lumber site of this operation. Does this inhibit the sawing of lumber?

Mr. GARDNER. No.

Mr. CLEVINGER. It would require, would it not, considerable regulation by either Agriculture or Interior to prevent what might be timber-slashing operations up in that area under the present process of getting out lumber; would it not? Could it not be an operation quite apart from the pulpwood operation?

Mr. GARDNER. I believe the Forest Service witness will be able to completely satisfy you, Mr. Clevenger. I know only I saw a contract that has page after page explaining the controls the Forest Service will have over the development and the methods of the cutting of the timber. I am entirely confident there need be no fear of timber slashing or any desolation of the area.

Mr. ANDRESEN. Are there any other questions? Do you have anything to add, Mr. Gardner?

Mr. GARDNER. I would like, if I could, Mr. Chairman, to explain why we are proposing only an interim solution at this time. Most of our discussions have been directed to an effort to put this problem out of the way, so Forest Service has been authorized to sell this timber, and it will take following legislation to determine the native rights and to make an appropriate payment to them. We are simply endeavoring to produce here some noncontroversial legislation, and I am afraid at this time, in this session, it would have to be noncontroversial legislation before we could, with reasonable hope of success, ask this committee and the Congress to consider it.

Simply to indicate the nature of the difficulties into which we fell I would like to suggest very briefly the sort of methods which have been proposed to dispose of this problem. One is a general extinguishment of all native rights in the Tongass National Forest. Ordinarily that proposal is accompanied by authorization to bring suit in the Court of Claims, or before the Indian Claims Commission, for the value of the timber to which the natives might be found to have had valid right. The natives have opposed that, and so, too, has the Interior Department, because it seems something of a breach, in fact, a very real breach, with our traditions of dealing with the native tribes. Other suggestions have been the use of the Tlingit-Haida Jurisdiction Act, to include the timber, or authorizing the sale of the timber suits to be brought in the Indian Claims Commission. Other suggestions have called for administrative hearings, with court re-

view, to determine the exceedingly numerous factual issues. Others have called for congressional definition of the standards by which possessory rights would be adjudged to be valid or invalid. Certain proposals are condemnation of the lands, to include it in the national forest. Others to set up a special three-man court. Some of these proposals are hopeful, and others of them are not hopeful. The overwhelmingly important fact is the interested persons could not agree on any method by which finally to dispose of this. In desperation then, since time is running so very short, we have got, I believe, complete agreement, with the possible exception of the native villages, on the present bill, which does only two things: One, it authorizes the letting of these timber contracts, and the sale of land for the mill sites and town sites, so that this urgently necessary timber development can go ahead, and thus it leaves the controversy where it belongs, between the United States and native villages.

Second, it postpones until later a definitive solution of how we are going to determine these native claims, how they are going to be paid, and how much.

As a token of the fact that this is but interim relief, urgently needed, section 3 provides that all the receipts from the selling, both of the timber and land, shall be paid into a special account until we have worked out a solution. That solution, under this legislation, will require further legislation by the Congress.

Again, it makes express that by the passage of this joint resolution the Congress is not attempting either to recognize or to extinguish the native claims. If, as everyone most devoutly hopes, the Congress is able to take this interim action there will follow a half year in which the natives and various interested agencies of the Government must attempt to work out a reasonably satisfactory solution to present to the Congress. If that should succeed, I hope the second session of this Congress will have presented to it noncontroversial legislation finally to put an end to this vexing problem. If it should fail and if the interested groups and agencies could not come to an agreement, nevertheless there would be presented to the Congress, at the start of the next session, legislation which, while controversial, would be introduced sufficiently early so you could get to the bottom of the matter and have the entire session in which to consider it and act upon it.

We are convinced that only by disposing of it in two bites, as we here propose, is it at all possible to have the timber contracts written and the work started this summer, which is so vitally necessary for the development of the Territory and for the welfare of the natives alike, to say nothing of the hard-pressed consumers of newsprint and other lumber products.

I believe that the counsel for the native villages, who represents half or more of those affected, has requested of the chairman that the hearings be held open for a brief period necessary for him to ascertain the viewpoint of the native villages upon this proposed legislation. We have discussed with him some of the earlier provisions in attempting to work out a final solution, but not the present one.

The Superintendent of the Alaskan Native Service, Department of the Interior, arrived in Alaska from Washington this last week end, and I am exceedingly hopeful he will be able to explain to the natives

what we intend to do, and why we are proposing an interim solution.

So far as the Department of the Interior is concerned, I think it only reasonable to allow a brief period of time to pass, in order that this committee may have the benefit of the views of the native villages on this proposed legislation. I would be hopeful if the natives and this committee thought that a desirable procedure, that we might accomplish the same purpose by proceeding, if this committee were so disposed, to dispose of it here, and rely upon the Senate to act later, and at that time to take into consideration any dissent which might develop from the native villages, but I devoutly hope that would not be the case.

Mr. ANDRESEN. In other words, you suggest that we take immediate action on the bill and then wait on the Senate, or have the Senate wait until the natives have spoken.

Mr. GARDNER. I can entirely agree that the natives would want this committee as well as the Senate to have the benefit of their view on it and I am not sure it would be satisfactory to this committee. I am looking at it with an eye on the calendar. That is the only reason I make the suggestion.

Mr. ANDRESEN. The legislation is urgent because you want to get going with this project this summer and fall, is that right?

Mr. GARDNER. I am afraid, sir, if the timber contracts are not written this summer we will run into the danger of having failed a third time in developing southeastern Alaska. No one at this time can predict the State of the bond market next year, no one can predict that the sizable sums of money which are necessary to be invested in this operation will be available a year from now, and no one can predict what the psychological impact of another failure to clear away the legal problems involved will be upon the man who otherwise would be willing to go ahead. For that reason I consider the legislation exceedingly urgent, but I do not wish Congress to take action without knowing the native viewpoint first.

I made my suggestion for reliance upon the Senate simply because of my great conviction that time is not only of the essence but it lies as the whole foundation of this most important development.

Mr. ANDRESEN. We have a great deal of respect for the Senate, but we also want to have the information.

Mr. GARDNER. Yes, sir, I fully recognize that. I was not presenting it as a recommendation, but simply as an expression of my hopes.

Mr. ANDRESEN. I also assume that this group who desire to go into this venture can probably get their money from the RFC.

Mr. GARDNER. No, sir.

Mr. ANDRESEN. Or from some other governmental agency.

Mr. GARDNER. No; it is purely private financing.

Mr. ANDRESEN. That would not preclude them from getting it from the RFC, or they might even come before the Congress. We just passed bills involving several hundred million dollars for Greece and Turkey, none of which will ever be repaid.

Just one other question, Mr. Gardner. Can you give the committee some idea as to the money involved in the claims that have been filed, and the expected claims, to cover all claims that might be filed?

Mr. GARDNER. I cannot, sir, and I do not believe any man living can estimate the magnitude of the claims. It may vary from exceedingly small to an exceedingly large amount of money. If, to fix the maximum limit so far as the Tongass National Forest is concerned, if one wants to make a series of arbitrary assumptions, if one assumed, contrary to my belief, that the natives could establish 100 percent of their claims to the area and there were 15,000,000 acres within the forest, and if the total value of the land would be \$2 an acre, then the claims for land would reach in the neighborhood of \$30,000,000, plus, if this was construed as a condemnation to which constitutional standards are applicable, interest from the date that the land was taken from the natives, and what time that is I do not know.

Mr. ANDRESEN. Is it your opinion that the amount involved in the claims will exceed the amount that the Government will get for the sale of the timber?

Mr. GARDNER. It is my opinion, sir—and it is only my opinion, and no man can speak for more than one person—when it comes to the amount involved in the Alaskan land question, it is my opinion that the natives are likely to establish their claims to something less than 10 percent of the area, and on the arbitrary estimate I have been making, if they be paid the full value of the land, it would probably run in the neighborhood of \$2,000,000 to \$3,000,000. That amount would substantially exceed the proceeds from the sale of timber and from land during the early years of the contract. It would be substantially less than the revenue which the Government would realize over the years for the sale of timber from the Tongass National Forest. I have not pursued that too closely, because Congress has declared that there should be a Tongass National Forest, and, rightly or wrongly, the Forest Service has assumed throughout that it did own this land. I am quite sure that if a substantial area were to be found to be owned by the natives rather than the national forest, they would propose a purchase or condemnation of the land in order to have the necessary rounded area for timber development.

Mr. ANDRESEN. We thank you very much for your statement.

Mr. GARDNER. I thank you, Mr. Chairman, for your courtesy.

Mr. ANDRESEN. Mr. Granger.

STATEMENT OF C. M. GRANGER, ASSISTANT CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. GRANGER. Mr. Chairman, I have with me Mr. Frank Heintzleman, who is the regional forester for the Forest Service in Alaska, and who has quite an intimate knowledge of all of the details of what we have been talking about here in regard to our pending timber transactions. He will be available for answering questions.

First, I would like to clear up what may not be entirely clear to some members of the committee, that all of the timber in southeastern Alaska, with the exception of minor fractions on very limited patented areas, is in the Tongass National Forest, so that it is the only place where pulp and paper development may go for the necessary timber supply. That means also that all of the timber which is cut to supply any pulp development in Alaska will be cut under the supervision of

the Forest Service, which will determine where the timber is to be cut and the cutting conditions under which it will be operated. I believe there is no reason to fear, Mr. Hill, that there will be the kind of cutting that you have deplored, very properly, that has come under your observation, and that of some of the other gentlemen here.

The negotiations which the Forest Service has been conducting with various concerns who have expressed interest in Alaskan pulp and paper development have progressed to the point of two cases where these concerns are now ready to have timber offerings advertised, and upon the completion of the advertising, to submit bids for the purchase of the timber and to enter into the necessary contract with the Government for the cutting of the timber and the establishment of pulp and paper mills. We have, in the form of a letter to that effect from one such concern, and I have verbal assurance from another concern which has not had time to get written word here for these hearings, that that is their position too. I would like to read the letter that I have, Mr. Chairman. It is very brief. It is signed by L. Morris Mitchell, vice president of the D. & F. Co., in New York City. It is addressed to Mr. Lyle F. Watts, Chief, Forest Service. [Reading:]

Subject: Proposed pulp and paper project at Thomas Bay, Alaska.

DEAR MR. WATTS: As a result of the many conferences we have had with you and your associates we believe a complete meeting of the minds has been reached between the representatives of the Forest Service on the terms of a timber-sales agreement and provisions for advertising same and that the D. & F. Co. would like to see the advertisements get underway and are prepared to submit a bid based on such advertisements and sales agreement provided the Indian claims or aborigine rights matter is satisfactorily cleared up by legislation or otherwise.

If the D. & F. Co. can be of any assistance in clearing up this problem, please do not hesitate to call on us.

These two concerns, Mr. Chairman, have indicated that time is very much of the essence as a consideration of their proposals, because they believe that present economic conditions are favorable toward a venture of this kind. Even under the most favorable conditions it is naturally fraught with some hazard, because it involves a gigantic undertaking in a more or less remote territory. They have indicated it is extremely important from their standpoint that the negotiations be brought to the point where they can actually get under way, with not alone the perfection of their necessary surveys, but with final arrangements for their financing and other activities which will precede the actual construction of the pulp mill.

Under the law which governs the sale of national forest timber it is necessary that it be advertised for a period of at least 30 days prior to the awarding of the contract. In this case we are proposing to advertise for 60 days, because of the very large size of the undertaking. If we had not the urgency of the time factor, we might be disposed to spread the advertisement over a still longer period. However, much advance publicity has been given by the Department of Agriculture to Alaska pulp and paper possibilities, and particularly in 1944 by the wide circulation of a sort of prospectus which we got out. Anyone who is expressly interested in submitting a bid has had a reasonable opportunity so far to explore, at least in a general way, the Alaskan

potentialities. In any event, our advertisement will run for 60 days, and so far we thought we should not start the advertisement until this Indian claims matter had been cleared up by legislation, as is proposed here. It is perfectly obvious that neither of these two concerns, nor any other, could afford to go into Alaska, with the necessary large investment required, under the risk of having their plans upset by the intervention of Indian claims over a large area.

Mr. ANDRESEN. Does the Department claim all of the land within the boundaries of this national forest?

Mr. GRANGER. Except for areas which have already been passed upon or set up in the form of Indian reservations, the Department has had jurisdiction without any disturbance since the creation of the national forest. While it is recognized that these more or less undefined aboriginal claims have been in existence, there has been no assertion of those in a formal way to interfere with the administration of the national forest. We do claim all of the land in the national forest to which title has not passed, except of course that it is subject to final determination as to whether the natives have any adverse claims.

Mr. ANDRESEN. You do not have the situation like we have in the Superior National Forest, where there are individual owners of property within the forest who pay taxes on them, do you? Up in Alaska, in this area, there are no claims of that kind?

Mr. GRANGER. There is only a very, very small area of patented land within the boundaries of the national forest.

Mr. GOFF. Mr. Chairman.

Mr. ANDRESEN. Mr. Goff.

Mr. GOFF. Mr. Granger, in connection with these bids, something has occurred to me that is not in any way connected with this matter of giving the natives whatever proceeds may come from the sale of the land in this trust fund, if they are successful in suits, that should be considered. If they do own this land they have a right to keep the timber or cut it, or leave it stand, if they want to. Maybe they would want to preserve it as a hunting ground. Money might not fully compensate them for the loss, if the timber is cut off. I assume from this case in the circuit court of appeals, that any claims that the Indians have have been more or less limited to the areas on which they can give evidence showing they have actual possessory rights by actually being on the ground. I would take it, from the statement made by Mr. Gardner, that the Indian villages are close to the coast, and I assume in the sale of the land the Department will make some effort to sell areas that are not areas where the Indians have been hunting or fishing in numbers. Has that thought occurred to you?

Mr. GRANGER. Mr. Goff, the hunting that the Indians have done has been in widely dispersed areas and of a widely dispersed character, I presume. They rove over considerable areas in doing their hunting. So, as far as I know, there are no particular concentration points that would be disturbed by the sale of timber.

Indian fishing is practically all deep sea fishing for salmon and is not involved in this action here. This bill does not extend to coastal waters in Alaska. But we would certainly not disturb, in the sale of land, as far as the Department of Agriculture's recommendations go, any areas which are physically occupied by the Indians for villages or

schools, or used for fish traps and things of that kind, that are fixed and on which they have established physical occupancy.

Mr. GOFF. The reason I brought this matter up was because of Mr. Gardner's statement. He said it was unlikely that they would be able to establish any real possessory rights to more than 10 percent of the area. It would seem to me you would have, if you tried to make these sales, some areas where the claims could not be so satisfactorily established.

Mr. GRANGER. I do not think we can possibly stay out of the 10 percent, Mr. Goff, because it involves substantial areas in some of the units in which our earliest operations would have to take place. Up in Alaska while there are 16,000,000 acres in the Tongass National Forest, the commercial timber is entirely along the coast line of the mainland or islands, and extends only a short distance inland, perhaps on the average not more than $2\frac{1}{2}$ miles. Some of the Indian claims which appear to have possibly the greatest validity extend for long distances as narrow strips up and down the coast, so it would be almost impossible to avoid them in these two imminent pulp and paper undertakings.

Mr. GOFF. There was a reference made to the price of \$2 an acre. Is that the going price of this timber up there at this time?

Mr. GRANGER. I do not remember what Mr. Gardner said about the price per acre, but the price of the timber in the sales that we have made there have so far been in the neighborhood of \$1.50 a thousand board feet. On the average acre of commercial timberland there is approximately 20,000 board feet. If you take into account the timber value the average acre would be worth much more than \$2, but the bare-land value might not be worth \$2.

May I make one more observation on your earlier question. It is doubtful that what has happened in the United States is any criterion that the Alaska Indians would want to preserve the timber uncut. They no doubt would want their assets to yield them money as rapidly as practical, and as in the United States they would probably wish the timber cut for the purpose of selling it; I hope, under sustained yield, so it will furnish them with recurrent cash revenue. Nowhere else in the United States have the Indians desired to have any considerable body of the timber left uncut.

Mr. GOFF. Your sales would be made in the usual way, by selling the stumpage?

Mr. GRANGER. Yes.

Mr. GOFF. And the timber cut would fix the value rather than the land itself?

Mr. GRANGER. Yes. The observation that the timber and land were sold applies only to the small areas where the timber stood on home sites. Generally timber is sold on the stump.

Mr. ANDRESEN. Mr. Granger, can you return this afternoon?

Mr. GRANGER. Yes, sir.

Mr. ANDRESEN. We will adjourn the committee then until 2 o'clock this afternoon, because we have a short memorial service over on the floor for one of our Members who has died. Come back at 2 o'clock.

MR. GRANGER. Mr. Chairman, I believe there are some representatives of the Department of Justice here. Do you wish them to return this afternoon also?

MR. ANDRESEN. Yes; all the witnesses will please attend this afternoon at 2 o'clock.

(Whereupon, at 11:50 a. m., the committee recessed to 2 p. m. the same day.)

AFTERNOON SESSION

MR. JOHNSON. In the absence of the chairman, Mr. Hope, who is tied up right now, I have been asked to continue the hearing. Now, Mr. Granger, you were on and have not completed, so we will be glad to have you continue at this point.

STATEMENT OF C. M. GRANGER—Resumed

MR. GRANGER. Mr. Chairman, I do not know that I have any more to volunteer, except I should like to repeat with all the emphasis I can that time is very important and that these concerns which have evidenced their intention of going ahead stressed that very heavily. It would be quite unfortunate if any removable obstacles are not taken out of the way at an early date. We do not want to lose the favorable opportunity for getting the pulp-mill developments under way.

MR. JOHNSON. Does that conclude your statement at this time, Mr. Granger?

MR. GRANGER. Yes.

MR. JOHNSON. Do you have any questions, Mr. Goff?

MR. GOFF. I am interested in the type of timber you have there in the national forest, Mr. Heintzleman.

MR. HEINTZLEMAN. The timber in southeastern Alaska closely resembles that on the coast of Washington and Oregon. It is spruce and western hemlock, both of which are very valuable pulp-making wood. The larger trees are spruce, the smaller trees hemlock. The average stand is 20,000 board feet, or 40 cords per acre. However, in some cases the volume will run as much as 50,000 and 60,000 board feet per acre.

MR. GOFF. Isn't that a type of timber that is not ordinarily used for pulp?

MR. HEINTZLEMAN. Those species are standard pulpwoods. They are the two species so widely cut in Oregon and Washington for high grade pulp.

MR. GOFF. I thought more of the smaller growth was used for pulp.

MR. HEINTZLEMAN. On the west coast fairly large material is used for pulp, much larger than in eastern Canada and the New England States.

MR. JOHNSON. I would like to ask a question. Under the continuous operation or maintenance of these forests, where they cut out a section of pulpwood, is there a natural growth that comes on itself, that replaces itself, or do you replant?

MR. HEINTZLEMAN. We intend to depend almost entirely on natural reproduction. In the cutting of the timber we run the cutting strips in such a manner as to get natural reseeding from remaining timber

on the hilltops and along the sides. We also leave small patches of timber spotted through the cutting areas to reseed the rest of the tract. We also intend to replant where this proves necessary, but, by and large, we think we are going to get excellent reproduction from natural sources.

Mr. GOFF. Mr. Heintzleman, I assume either because of the climate or because of the soil itself, that the chief value of this area is in the growing forest.

Mr. HEINTZLEMAN. That is correct. We have classified the land in southeastern Alaska and segregated out and thrown open to homestead entry those lands which are most valuable agriculturally. The amount thrown out to date is considerably less than 1 percent of the total area of southeastern Alaska. The rest of the region is rough mountain land, principally valuable for the growing of timber.

Mr. GOFF. I know in my own State, Idaho, there is quite an extensive area where it has been decided the greatest economic value of the land will be in the permanent growing of timber. I think it is intended that it will be kept perpetually as a forest area. I assume this is that type of ground.

Mr. HEINTZLEMAN. That was the purpose of the creation of the national forests in Alaska. The lands were to be held permanently for the production of timber crops. The forest in southeastern Alaska, Tongass National Forest, is especially good for the production of timber, because of the rapid growth. We do not have the intense cold that is found in interior Alaska, while we do have the benefit of the heavy rainfall and mild temperatures that result from the Japan current that touches the North American shore in this section of the world. Our growth per acre per year is very high.

Mr. GOFF. In other words, it is timberland of the general type around Puget Sound.

Mr. HEINTZLEMAN. Yes.

Mr. JOHNSON. I heard the description by Mr. Gardner this morning, that the plan was for perpetual reproduction, taking one section in an area and then moving on, and make a rotation and then come back. How long is that period or cycle?

Mr. HEINTZLEMAN. Eighty-five years. We could grow timber which would be merchantable in a much shorter time than that, but the growth per year is so high and between the fiftieth and eightieth year it decidedly pays to hold the stand for the longer period. Again the trees become very large and are thus more economical to harvest with the heavy machinery used in that part of the country.

Mr. JOHNSON. When you take this off for pulpwood you practically strip it?

Mr. HEINTZLEMAN. You cut it as clean as possible, but leave patches of timber here and there throughout the cutting areas for reseedling purposes. There are a few areas on which we will practice selection cutting, taking individual trees throughout the forest, and leaving the rest for future growth, but in most cases in Alaska it is necessary to cut clean in strips because of the danger of windfall to trees which are under a selected-tree system of cutting.

Mr. GOFF. One other question, Mr. Heintzleman. Is it true in your Alaska timberland when a crop of timber reaches the right stage for cutting, that it tends to deteriorate after that time?

Mr. HEINTZLEMAN. Yes. We have taken that into account in fixing 85 years as the age.

Mr. GOFF. Is there much in the way of insect pests up there?

Mr. HEINTZLEMAN. Not much. We now have a small one which started 2 years ago, but as it is not the type of insect which ordinarily produces epidemic infestations, we think it is not going to be very serious.

Mr. GRANGER. Mr. Chairman, I would like to add one comment that I did not think of this morning. No one has raised the question here, but the committee may hear the question raised at some juncture as to whether this timber cutting will have any adverse effect on the salmon industry, the foremost industry in Alaska. I would like to say it will not have an adverse effect, because our timber contracts provide for protecting the streams in which the salmon spawn, against any activities such as driving of logs or leaving of debris in those streams, which would interfere with the spawning of the fish. I am told that the disposal of the mill waste in the tidal waters up there offers no substantial difficulties from the standpoint of having any adverse effect on fish. The wide channels and the great tides of the region make the situation different than where such wastes are dumped into rivers and streams. We cooperate with the Fish and Wildlife Service, to devise measures incident to the cutting of timber to protect the fish resource.

We also plan to reserve strips and patches of virgin timber in the vicinity of the better recreation areas and along the more heavily traveled fiords and narrow steamer channels where scenery is a very important feature. We will keep these other values in mind at all times in connection with our timber-cutting authorizations.

Mr. JOHNSON. I would like to ask, in the pulping of wood are there any chemicals or acids used at all in that process that goes into the streams as waste?

Mr. GRANGER. Acid is used in sulfite or sulfate pulp. The bulk of the pulp likely to be produced may be ground wood and acid is not used in making ground wood. The pulp in newsprint is mostly ground wood, made by simply grinding up the wood by a mechanical process. However they mix some sulfite pulp in with the ground wood to make newsprint, so that some acid will result from newsprint mills. Its deposit in the coastal waters there, I am told, is not likely to cause any trouble, as far as fishing values are concerned.

Mr. JOHNSON. I wondered if there was contemplated much use of the process where sulfite was used in the manufacture of pulp, or where sulfite liquors are used in the manufacture of alcohol.

Mr. GRANGER. That may well be done.

Mr. POAGE. Mr. Chairman, I want to ask why there is this provision on page 3, starting at page 2, providing that these funds be held "in the Treasury until the rights to the land and timber are finally determined by or under future legislation"? I just wonder if those rights are not going to be determined by the courts rather than by future legislation. Certainly legislation has vested those

rights somewhere now and it would be the courts and not the Congress to decide where those rights are. I do not think this Congress can change those rights. The rights are vested somewhere and there is no future legislation, as I understand it, that can change it. A court decision can determine and announce where those rights are and who has the right to this land, but if somebody owns that land today, Congress cannot come in here and pass an act divesting them of title without paying them for it.

Mr. GRANGER. The chief question is, Mr. Poage, as to whether the natives there do actually own any land. Congress can divest the natives of all such ownership if it decides to do so.

Mr. POAGE. How?

Mr. GRANGER. By the basic authority which resides in the sovereign government to take away not only undefined rights but defined rights. Mr. Vanech, of the Justice Department, is here and can speak more authoritatively than I can on that, but I believe it is the consensus of legal advisers of the Government departments here that additional legislation is likely necessary in order to lay down a pattern of determining and adjudicating these rights, whether it should be done by a court, or commission, or some other means. I believe it is felt by the legal authorities that Congress will have to prescribe some additional procedures.

Mr. POAGE. The point I am making is once rights in land are vested I do not know of any way that Congress can vest it in somebody else without paying them for it.

Mr. GARDNER. I did not say they could do it without paying them for it. I say they can deprive them of all these rights. They probably will have to compensate the holder of the rights. It has not been determined yet whether the natives have any rights on extensive areas of wilderness used only lightly or not at all.

Mr. POAGE. It is not Congress that is going to determine that, it is going to be the courts who determine whether the natives have the rights.

Mr. COOLEY. Except for the fact that the Government instituted a broad condemnation proceeding by right of eminent domain and condemns the area, then each individual claiming ownership would have the right to go into court and have his rights adjudicated. You create a special fund to compensate for such rights as you might take over.

Mr. GRANGER. That is right.

Mr. POAGE. You do not determine the rights to the land by future legislation. The rights have already been vested. The courts can at future date determine at once what these rights are.

Mr. GRANGER. I would rather the people from the Department of Justice would tell you why future legislation is necessary. I am not an authority on that.

Mr. JOHNSON. Mr. Granger, have you concluded? If you have, we will hear from the Department of Justice at this time.

Mr. GRANGER. We have nothing to offer, unless you have additional questions.

Mr. JOHNSON. Are there additional questions of Mr. Granger? If not, we will hear from Mr. Vanech.

STATEMENT OF A. DEVITT VANECH, ASSISTANT ATTORNEY
GENERAL, LANDS DIVISION, DEPARTMENT OF JUSTICE

Mr. VANECH. Mr. Chairman and members of the committee, I have with me Mr. Frank Chambers also, who is Chief of our Legislation Section.

I am sure the committee is familiar with what the bill provides. Our job is just to see that the interests of the Government are protected, from a legal standpoint. We feel that the Government has absolute title to this land up there.

There are some Indian claims that they feel they can bring an action in the court and sustain it when it is brought. On that theory there is no objection to us going in and taking the land for the purpose of entering into this contract for timber, because we feel it is our land. However, you know and I know that if the court finds that the land belongs to someone else, that person is entitled to use his land as he sees fit. Now if the timber has been removed, even though we pay him for it, he may then come back and ask for the value of the land, because possibly the land will no longer be any good to him. He may want it for some other purpose. If that is true, I just want to call to the attention of the members of the committee that then we would be forced to pay him for the value of the land that has been found in the court.

Mr. COOLEY. On which timber is cut?

Mr. VANECH. Yes, sir. I have been told by the Interior Department that they feel on the outside there would not be any more than 8 to 10 percent of these claims sustained. In taking over this land under the process that is now set up in this bill, this would suffice for the time being.

Mr. POAGE. You take in my country, in my State, many of the land titles were dependent on Mexican or Spanish grants. Those seem to me to be analogous to aboriginal claims that were in existence before the country became a part of the United States, just as these claims were in existence before Alaska became part of the United States. We recognize those Spanish grants. Do you mean to say this Congress can simply pass a law and say the Spanish grants are void?

Mr. VANECH. What you do there, Mr. Poage, when you pass legislation like that, you exercise the right of eminent domain.

Mr. POAGE. Yes, but you have got to pay the owner a reasonable value on the land, you have got to give the owner of the land an opportunity to come in and have his day in court. This says that the rights to the land and timber are to be finally determined by or under future legislation. What I am trying to get at is, do you contend to this committee that rights that now exist—maybe they do not exist, I am not claiming that these aborigines have any rights here at all, but you fear they have or you would not have this language in here—do you contend this Congress has the right to extinguish those rights simply by passing a law?

Mr. VANECH. If you are asking me, Mr. Congressman, if the power of Congress is extended to the point where they can wipe out a man's right to land, the answer is "No."

Mr. POAGE. Isn't that exactly the power that this bill claims for Congress at some date in the future?

Mr. VANECH. No. What they want to do, as I said in the interest of the Government, is to put through a bill extinguishing all Indian claims at one time for the purpose of bringing them into court at one time. It is really exercising eminent domain on a larger scale.

Mr. POAGE. You just said Congress could not wipe out those claims, and therefore you cannot extinguish the right. I am not bothering about a claim that hasn't any foundation, I am simply saying the rights either exists today or they do not exist. It is not for us to determine whether they exist or not, it is for the court to determine whether they exist or not.

Mr. VANECH. All right, Mr. Poage, but the instrument you would pass would just be the means of bringing about the extinguishment of these rights at one time, instead of waiting for a chain of actions to be brought through the years, so that by virtue of this particular industry being brought in there the Congress of the United States would have to pay additional money for X on that end as over A on this end.

Mr. POAGE. I am not arguing against the desirability of this procedure, I am trying to get you to discuss the power of Congress to wipe out land titles.

Mr. VANECH. You are using the wrong phrase.

Mr. POAGE. If they haven't got title they haven't got anything. If the Government owns the land outright then there are not any other rights.

Mr. VANECH. There are outstanding claims.

Mr. POAGE. Those would be adjudicated by the courts.

Mr. VANECH. The point you are raising now is how is the Congress going to justify its position in having anything to do with the extinguishing of these claims. The Congress may introduce legislation to do this all at one time, in the interest of the Government.

Mr. POAGE. The Congress may require the people to file suit within a certain time. The Congress can close the courts to those people and apply the statute of limitations to them at any date in the future it sees fit, but the Congress cannot, as I understand American Government, simply pass a law and by edict of law say, "This land does not belong to you."

Mr. VANECH. The Congress has the power to exercise eminent domain in the public interest.

Mr. POAGE. This is not exercising the right of public domain but is an attempt to pass legislation on the determination of who owns land.

Mr. VANECH. I am just interpreting here what I know the Interior Department has in mind.

Mr. POAGE. I am not asking you what the Interior Department has in mind, all I am interested in is the legal question of what right you claim that the Congress has to destroy land title. I am not talking about claims, I am talking about what right the Congress has to destroy title. Title either exists in the aborigines or it does not. Of course we can give it to them, I understand that. If title does exist in the aborigines it is not a question for the Congress to determine; it is a question that already exists or that does not exist. It seems to me the courts and not the Congress must determine what the facts are.

Mr. VANECH. But the Congress has the right to protect its own government in the procedure which would follow.

Mr. POAGE. As to procedure, yes; I am agreeing Congress can pass a statute of limitations and say, "Day after tomorrow you cannot sue," but as to whether the rights are there or not, I am simply saying the rights are either there right now or not.

Mr. VANECH. That is true, and that can only be adjudicated by court action.

Mr. POAGE. That is right. Don't put it on the Congress to determine by future legislation. If the court decides that land belongs to the aborigines, we can pass laws from now to next summer and say it belongs to Orville Zimmerman and it still will not put title in Mr. Zimmerman.

Mr. GOFF. I think each of you has a misunderstanding. You are arguing on two different things. I think this legislation means that Congress, by statute, will provide how rights are to be determined, rather than to determine the rights. I can see that it might give the misconception that Mr. Poage speaks about. What you really intend to say, Mr. Vanech, is that Congress provides by legislation how the rights are to be determined, rather than determining the rights.

Mr. VANECH. That is right.

Mr. COOLEY. But why don't you put a period after the word "determined" and strike out all the rest of the language?

Mr. VANECH. Mr. Congressman, we would not want any suits in the meantime until this procedure has been set up.

Mr. COOLEY. What do you want with new procedure?

Mr. VANECH. We do not want new procedure, but we feel it would be very helpful to the Government and there would be great savings to the Government if we extinguish the rights of these claims, and then bring them into court at one time. It is just a question of procedure.

Mr. COOLEY. As Mr. Poage said, you cannot extinguish the rights to the claimants by act of Congress.

Mr. VANECH. We can establish the procedure by legislation to bring them into court as of a certain date.

Mr. COOLEY. Then I come right back to why do you want new procedure other than the established procedure under which we have operated all these years?

Mr. VANECH. Mr. Congressman, the answer is this: We feel if this is to go through, the Congress might set up machinery that would work to the advantage both of the Government and the claimant. In other words, instead of having suits spread all over everywhere in the Court of Claims, which would take a few years to come through, there might be some way by detailing judges from other courts to that particular area for the purpose of hearing these claims and these claims only, and getting them disposed of.

Mr. ZIMMERMAN. Now, as I understand it, the Government is going in there and claiming the land. The Government claims title to the land, doesn't it?

Mr. VANECH. We claim we have title now.

Mr. ZIMMERMAN. You claim the right to take this timber?

Mr. VANECH. Yes.

Mr. ZIMMERMAN. You are going to contract for the disposition of timber, aren't you?

Mr. VANECH. Yes.

Mr. ZIMMERMAN. And you are going to hold the funds until all the claims are finally determined, is that right?

Mr. VANECH. Yes, sir, in escrow.

Mr. ZIMMERMAN. Then don't you think all we need to do is to say "No action shall be brought in 1 year, 2 years, or 6 months after the passage of this act," and require all those claimants to come in?

Mr. VANECH. I understood they have to pay to the Territory of Alaska 25 percent, if it is determined that it is Government land. We do not want to go in and have to pay that money until the suits are finally adjudicated.

Mr. ZIMMERMAN. Why could not you hold it up? Why could not we put in a provision here that all money is to be held until such time as the suits are finally adjudicated?

Mr. COOLEY. It is already written in the bill, in section 3, which reads:

All receipts from the sale of timber or from the sale of lands under section 2 of this resolution shall be maintained in a special account in the Treasury until the rights to the land and timber are finally determined by or under future legislation.

Mr. VANECH. So long as that would protect our rights so we would not have to pay to the Treasury of Alaska 25 percent thereof.

Mr. ZIMMERMAN. "Funds or disposition thereof," put that in there. Then you could not dispose of it until that time.

Mr. COOLEY. I do not know why you want to leave the words in there "by or under future legislation."

Mr. VANECH. I agree with you people, and I know you are looking at it from a lawsuit, as we would have in our own State, but here we have a big proposition. We do not want a thousand lawsuits all over the country.

Mr. COOLEY. What can you do to prevent lawsuits?

Mr. VANECH. If you pass legislation extinguishing the claims, then they have to come to court immediately and establish their claims.

Mr. COOLEY. Where do you get that from?

Mr. VANECH. What do you mean?

Mr. COOLEY. That the Congress can sit here and extinguish a right that exists in a citizen and then you say he must come into court immediately.

Mr. VANECH. I assume the Congress is going to put a statute of limitations in the bill. What we are trying to do is bring it all together, instead of going to the expense of spending a lot of money to defend each suit.

Mr. COOLEY. How can you bring it all together if there are independent rights in separate citizens? Why could not you write after this language "shall be determined," and any suit for the purpose of determining such claims shall be brought within 2 or 3 years"?

Mr. GOFF. I think what you are trying to say in effect is this, Mr. Vanech, that when a company goes in on a particular section of land and they start up a mill and they start to cut, that you do not want the claims on that particular section of land filed by an individual,

and another in another place, one this month and one next month. What you are trying to say is that until the Congress provides the procedure. When you say "Under future legislation," you mean the determination of right under future legislation rather than that Congress will provide by fiat that rights are extinguished forever.

Mr. VANECH. That is correct.

Mr. GOFF. You merely provide that Congress in the future, after the Indian claimants and everybody have had their say, will try to enact a statute which will provide the procedure to determine this question in one suit.

Mr. VANECH. That is right, like you did in the Northern Pacific case.

Mr. GOFF. So it is not a matter of claiming that the Congress is going to pass a law to extinguish rights?

Mr. VANECH. No, sir.

Mr. COOLEY. You said that half dozen times.

Mr. VANECH. Beg pardon, Mr. Cooley?

Mr. COOLEY. I thought you used the expression you wanted Congress to extinguish the rights.

Mr. VANECH. Let me make a statement to clear up the record. If I have been misunderstood, let me state this: Congressman Poage was asking some questions of Mr. Granger and I came in to try to straighten that out. I got off the track. I came here to talk on the bill. We are determining future legislation. It hasn't anything to do with what we are trying to pass here. What I mean by future legislation is we hope Congress will authorize to bring suits at one time, so as to extinguish all difficulties.

Mr. POAGE. You can say, "No such suit shall be brought more than 2 years after the date of this act."

Mr. VANECH. Off the record a minute. May I say something off the record, Mr. Chairman, in that connection?

The CHAIRMAN. Certainly.

(Discussion off the record.)

The CHAIRMAN. Let the Chair say we expect to hear from the Indians before we get through. Their legal representative is in the room now, and they will have their opportunity to be heard before the committee at the proper time so we can ascertain what their rights are.

Mr. POAGE. It is not so much what their rights are that I am disturbed about. What disturbs me is for the Congress to make a claim that it has the right to extinguish rights in privately owned property.

The CHAIRMAN. Perhaps the language should be modified. As I understand it, the only claim that is being made by the Department of the Interior and Forest Service is that they desire, through this legislation, to preserve the rights of everybody just as they are now. They want to use this timber at a time when we need pulp very badly. This proposal in itself is not designed to in any way affect the rights of any of the parties who may have claims to these particular tracts of land. That is what we want to do in this legislation. If this language does not do it, then we will modify the language so it does do it. As I said, we want to leave everybody in status quo, as far as any rights or claims that they have are concerned.

Mr. POAGE. I do not contend that the bill does not leave it in status quo, but I do contend that the bill claims the power on the part of Congress to extinguish private rights. It says, "the rights to the land and timber are to be finally determined by or under future legislation." It says Congress has the right to determine what the rights are. My contention is this Congress hasn't any more right to determine what rights in land are than I have as an individual. The courts have the power to determine whether they exist. The Congress cannot take that right away.

The CHAIRMAN. If the Congress does not have the right, merely asserting it does not give it to Congress.

Mr. POAGE. That is true. I was one who felt it was unwise to attack the validity of our Supreme Court some years ago. I certainly do not now want to get in the position of claiming powers that the Constitution never gave to the Congress. I am maintaining that the Constitution never gave those rights to the Congress.

Mr. COOLEY. There is also an intimation in this language that this Congress will pass additional legislation.

Mr. POAGE. And that it will destroy rights.

Mr. VANECH. Mr. Chairman, on page 3, line 1, strike out the word "by," and it would read, "the rights to the land and timber are finally determined."

Mr. COOLEY. Right there put a period and it would be all right.

Mr. GOFF. No; I do not think it would do, if you will yield on that, because if you say, "until the rights to the land and timber are finally determined," that means the suits can be brought right now.

I think what the witness has in mind, and I think after studying it over, since two eminent lawyers have taken different interpretations on it, it deserves some changes. What he wants is to have the suits brought at one time and not have a lot of suits, to determine the claim of Sammy Highpocket that has one quarter section of land, and to determine the same issue with some other Indian in the same or some other section of the land. He wants a class suit to determine the whole thing. I think it is perfectly proper. It seems to me the suggestion of the language, "are finally determined under future legislation," or "by procedures outlined by future legislation" is all right.

Mr. POAGE. It does not say, "procedures outlined by future legislation." We all agree this Congress has the right to prescribe procedure, but it does not have the power to destroy rights.

Mr. GOFF. I agree with the gentleman on that. The only thing is I do feel there should be some bar to the present suits so they can go ahead with this procedure.

Mr. CLEVINGER. They already can do it by the statute of limitations.

Mr. GOFF. The statute of limitations means a time within which suits can be brought in the future or they are outlawed, but he wants something on this end of it; he wants something that will hold off suits right now, until they have a chance to go in there, until Congress provides some procedure by which all the rights will be determined together.

Mr. COOLEY. They have substantially that procedure right now in condemnation proceedings against the whole area.

Mr. VANECH. The Secretary of Agriculture would have to be authorized by Congress to bring that action for eminent domain. In condemnation proceedings you would have to authorize anyway.

Mr. COOLEY. You haven't even asked for it in this bill.

Mr. POAGE. Would not that get everybody in court?

Mr. VANECH. Not at one time, Mr. Poage.

Mr. POAGE. Why not? You could bring a suit against everybody in that area, all known and unknown claimants.

Mr. VANECH. Let me say at the outset it is to the Government's interest that this job is done expeditiously, that we protect the legal rights of the Government and not leave us open to any more obligations than necessary. I think the contracts that they want to enter into on the land for taking the timber are perfectly all right, because we say we own the land, anyway. As to the procedure to be followed, the Congress could outline the procedure, and that would save the Government a lot of money. As I pointed out, if we have to go through a long-drawn-out procedure, we may increase the value of the land by the very nature of the contracts there.

Mr. COOLEY. Why don't we do it now? Why put it off until the next Congress and have the Indians coming down here to Congress complaining about not having established these rights?

Mr. VANECH. You are absolutely right. I am 100 percent with you, but I understand the Interior Department would not want to do it.

Mr. COOLEY. You say Interior one time and Agriculture another time.

Mr. VANECH. Agriculture and Interior both enter into this under the Forestry Service.

Mr. COOLEY. You say Interior does not like it that way?

Mr. VANECH. I do not think the Interior Department wants to do it that way, for the simple reason they feel by doing it this way it will be expedited, as far as the contracts are concerned, and then they feel that later on we may pass additional legislation as to the procedure.

Mr. CLEVINGER. I suggest, Mr. Chairman, they consider some other wording on what they intend to do about the rights.

The CHAIRMAN. I think that is a very good suggestion. I think you have it very clearly in mind the questions that have arisen here and the nature of the language that might settle the particular differences of opinion.

Have you any further statement?

Mr. VANECH. Not unless the committee has any further questions.

The CHAIRMAN. Are there any further questions?

(No response.)

The CHAIRMAN. If not, we thank you very much, Mr. Vanech, for your statement.

Mr. VANECH. Thank you.

The CHAIRMAN. The next witness will be Ernest Gruening, Governor of Alaska. We will be glad to hear from you at this time.

STATEMENT OF ERNEST GRUENING, GOVERNOR OF ALASKA

Governor GRUENING. I am Ernest Gruening, Governor of Alaska.

Mr. Chairman and members of the committee, I would like to discuss briefly the tremendous importance of the project that we are trying to achieve through this bill.

The economy of Alaska has been extremely lopsided. It has been dependent almost wholly on two industries, the salmon fisheries and gold mining, and gold mining has been pretty well suspended since the war. Salmon fisheries is an uncertain quantity, and for years we have been seeking additional props to our economy. The utilization of some of these resources we have never used, the greatest of which is the timber.

In addition to utilizing this resource per se, it will mean for the first time an important year-around industry. For 25 years we have been hoping to get this pulp and paper development. It has always been just around the corner. Now, for the first time, it seems actually realizable at a time when not only Alaska needs it but when the country is in dire need of newsprint.

Then across the picture comes this matter of aboriginal claims which apparently was not a threat a few years ago. We know of nothing so important as to try to resolve this question now, and if this bill will do it—enable us to start a pulp and paper industry—you will be doing a tremendous thing for the development of Alaska.

I am not prepared to discuss the merits of aboriginal claims. I doubt whether anyone can state positively what those claims are. I think everyone feels that if the natives are entitled to something in the way of compensation, they should have it, but it has not been determined and the determination is going to be a long and complex matter.

I am convinced that the natives will benefit tremendously by the all-year-around employment they are going to get out of this new industry. It apparently means the employment of thousands of people. They are all-year-around residents. They are people who are more or less unemployed in the winter months; the season of activity is the summer months when they engage in fisheries. There has been some slight employment in the winter, but basically there is a period of 7 or 8 months when they have nothing to do, and this will mean a great deal to them and to the economy of Alaska.

We want to get rid as quickly as possible of this highly seasonal factor in our economy, where everybody works for 3 or 4 months and for 8 or 9 months is virtually unemployed.

So that, whether this legislation in present form is exactly ideal, I am not prepared to say. I know that Mr. Gardner has spent months on trying to reconcile the diverse views of all the different groups connected with it, and I hope we have something now that the committee feels it can act favorably upon so as to let us get started.

Time is of the essence. If this bill does not pass this time, it means it will go over to another Congress, and we have learned so frequently the power to delay is the power to destroy. If it goes over another year, we don't know what the general situation of the country will

be. We do know that these pulp and paper enterprises are ready to start now, if this question can be disposed of.

I think it is a thoroughly worth-while thing in the national interest. I think we all agree the development of Alaska is a desirable undertaking economically and strategically.

What we need is more people and more people employed all the year around. I know of no project that will go so far as this to achieve it—the development of pulp and paper industry.

The CHAIRMAN. I was wondering, Governor Gruening, if you know why there has been such great delay in making some determination of these Indian claims. Apparently, from the letter which this committee has received from the Secretary of the Interior, this question has existed for many, many years, perhaps ever since the Alaskan cession treaty, but apparently nothing has been done toward solving it.

Governor GRUENING. I do not know that I can give you a satisfactory answer, Mr. Chairman. I suppose that the initiation of any proceeding would rest with the various Secretaries of the Interior, and the fact that they have not moved would be something that they would have to explain. I do not know.

Mr. COOLEY. Governor, has there been any necessity for determination before this situation arose?

Governor GRUENING. It is only in the last year or two that it has seemed to hang over any development of southeastern Alaska as a threat. I doubt whether anyone was seriously conscious of it until 2 or 3 years ago.

Mr. COOLEY. Your agitation for pulp mills is something new; is it not?

Governor GRUENING. No, that is not; it has been going on for 25 years. But never before, I believe, have the Forest Service and the potential manufacturers been able to get together and iron out their differences.

Mr. COOLEY. Now that negotiations have reached that stage, is it not more necessary now than ever before to determine these rights?

Governor GRUENING. That is right, or at least put in a category where they would not impede this development. Even if we cannot make a permanent settlement of them now, we could at least obviate their preventing this undertaking.

Mr. COOLEY. If we would write into this bill a limitation on actions, and say no action could be instituted for 6 or 12 months, and none after a period of 3 years, that would fix it so you could proceed with your plans all right?

Governor GRUENING. I think the main thing is to make the investors in this enterprise feel that they are not throwing their money into something that they may not have when they have spent it.

Mr. COOLEY. They are protected by the language of this bill?

Governor GRUENING. I think so; yes.

The CHAIRMAN. The purpose of this bill, as I understand it, is to permit the development of this resource without in any way interfering with the rights or claims that Alaskan Indians or others may have in this land?

Governor GRUENING. That is correct.

The CHAIRMAN. And the reason that we are asked to pass this legislation now is that a determination of those rights can be expected to take a considerable period of time, perhaps years?

Governor GRUENING. That is right.

The CHAIRMAN. And unless we pass this legislation, this development which apparently is much needed and much desired by everyone will not be possible.

Governor GRUENING. That is correct, Mr. Chairman.

The CHAIRMAN. Is there any intention, as you understand it, to interfere with the rights of these claimants, or to put them in any worse position than they would be without the legislation?

Governor GRUENING. No. I think, on the contrary, it recognizes there may be a claim there.

The CHAIRMAN. I think so, too.

Any further questions?

Mr. POAGE. Governor, it strikes me there is need for this development in your country and these things mean a great deal to Alaska. I frankly had wondered why it was not done earlier, and I think you and the rest of those who had part in it are to be commended for working this thing up. I think it is thoroughly sound to use these resources rather than let them go to waste.

I have been disturbed about the phraseology of this bill, not as it relates to Alaska, not as it relates to anything you claim or that the Indians claim, but rather the claim that is made in behalf of the Congress. I do not want to be a party to making any such claim for such arbitrary power in a democracy. I do not think the Congress of the United States has the power to take my property away from me and give it to somebody else or to give me somebody else's property. I think I either own my land or do not own it, and I think these people up there in Alaska either own this land or do not own it. Maybe the United States Government owns it. I am inclined to think it does, but we should not shut the door of the courts in the faces of other claimants. They have a right to go into court and be heard. But to claim the Congress of the United States can usurp the power of all the courts and decide who owns this land is a claim I am not going to be a party to making. As I read this bill it plainly claims that right on the part of Congress.

I am not criticizing anything that Alaska claims or that the Indians claim, but I am criticizing the putting of Congress in a position where it puts itself up as superior to all courts in this land and the possessor of arbitrary power to divest one man of property and give it to another.

I do not think in this Government any such power exists. Either these people have a right or do not have. If they do not have it, then it belongs to the Government. If they do have, the provision is made here for the recapture of the proceeds of the land for them.

Is that not all we need to do to protect any possible outstanding claims—to say they have got to come in within a certain time and assert the claims? Surely Congress has the power, and I will agree Congress has the power, to fix a statute of limitations. Congress has the power to prescribe procedure under which these claims may be asserted, but Congress cannot change the existence of the right or

destroy the existence of the right if it exists. Congress can fix the method whereby it is determined.

Do you not think all they need is to fix the date on which these claims may be asserted, or, if it is desirable—and I have no objection—to provide additional judges if that is needed, or whatever is needed to give these people a fair deal? But is not the vital thing here as to this particular feature of the bill—and it seems to be the only one in question—simply a matter of seeing these people have a day in court, and that that day is fixed so they cannot come in 50 years from now and assert their claims; and if that is true why should we not fix, as Congressman Cooley said, a certain period of time in which these claims are to be brought, and then bar them if they do not come in at that time? Congress has the power to open or close the doors of the court but Congress cannot set itself up as a court.

Governor GRUENING. I agree, Congressman Poage, the sooner we can get the matter settled the better. The issue seems to me to be this: That the urgency of this enterprise is so great we want to get it started this summer if we can. If we took some other course and said let's drop all this until these claims are settled, the legal process is pretty slow and it might take 3 or 4 years.

Mr. POAGE. It is not my suggestion or Mr. Cooley's suggestion that we drop any needed provision of the bill. We give you the provision in section 3 on page 2 for impounding the funds so as to protect any possible claimant, but let us not make the assertion on page 3 that Congress has the power to destroy the rights of the people in their land. We simply say that the courts shall determine what rights exist, not give or take anything away from anybody, but merely determine what the rights are. If it is determined that these people have rights, then the money is provided for in the first part of section 3. If the courts find there is not anything, then the proceeds belong to the Government.

I am perfectly willing that you should go ahead with this program. But do you not think if you were investing your money you would rather have a provision that required a court determination at an early date than merely to have a provision in here that expressed the pious hope that some day in the future Congress will see fit to undertake to decide who owns the land, when you know and I know Congress does not have such powers? Do you think this sort of language to the effect that Congress will determine who owns this land is going to satisfy anybody who is going to invest their money?

Governor GRUENING. I would like to have Mr. Gardner who has been working on this legislation answer that question, if he were here. I do not feel qualified. I am not a lawyer, but what you say seems to have a lot of sound common sense.

Mr. HEINTZLEMAN. Mr. Chairman, as a layman maybe I can throw a little light on that.

The CHAIRMAN. We will be glad to hear from you Mr. Heintzleman.

Mr. HEINTZLEMAN. This is generally what is running through the minds of Mr. Gardner and some of the others who had the immediate task of preparing the draft of this proposed legislation. First, I think they felt very definitely both in their own behalf and in behalf of those who are claiming these lands, that it would probably be im-

possible to get through Congress in short order any legislation which appeared to try to take up and dispose of this long-standing controversial matter in a short space of time. Therefore, my interpretation of this language is that it had two purposes; one was simply to show that the funds would be held in this special fund until there was a final determination, and the other was to indicate their belief that the pattern of settlement should be laid down by subsequent legislation of Congress. I should suppose that if the committee objects to having that latter part so expressed in this bill, it would not prejudice the introduction and consideration of legislation later having for its purpose to leave that part of the language out.

Mr. ZIMMERMAN. As I understand this bill you give the Congress the final say as to rights?

Mr. HEINTZLEMAN. Yes, sir.

Mr. ZIMMERMAN. Under section (c):

The purchaser shall have and exercise his rights under any patent issued or contract to sell or sale made under this section free and clear of all claims based upon possessory rights.

That will give the man who buys this land and puts up his investment the right to go in and cut timber wood?

Mr. HEINTZLEMAN. Yes, sir.

Mr. ZIMMERMAN. All right then, the next section provides:

All receipts from the sale of timber or from the sale of lands under section 2 of this resolution shall be maintained in a special account in the Treasury until the rights to the land and timber are finally determined by or under future legislation.

So far as the operation is concerned, there is nothing to stop that, is there? Regardless of future legislation?

Mr. HEINTZLEMAN. You mean stop the operation of final determination of the rights?

Mr. ZIMMERMAN. That is right. You provided here the rights to exercise the operation under the sale or patent or contract will be free from claims of anyone. He can go ahead and take the timber.

Mr. HEINTZLEMAN. That is right. That is not affected at all, as I understand it.

Mr. ZIMMERMAN. That would not interfere with the setting up of your plants or operations; would it?

Governor GRUENING. No.

Mr. ZIMMERMAN. That would give the man the right to do that because the funds are going to be left in the Treasury?

Mr. HEINTZLEMAN. That is right.

Mr. ZIMMERMAN. All we have got to do is find some way to settle these claims. Why should you not say the courts of Alaska will have jurisdiction or somebody—whoever represents the Government up there—will bring a suit to determine title and interests in this land, and all claimants shall be determined by certain times? That is all you have to do.

The CHAIRMAN. Let the Chair make this suggestion on that point. This committee has jurisdiction of this particular bill because it deals with the national forests. All this legislation attempts to do is to make it possible to proceed with the development of this particular project. It now appears to be within the realm of possibility

if some legislation can be passed to hold the Indian claims in abeyance and make sure that the interests of everyone are protected. This committee does not have jurisdiction of Indian affairs. We do not have jurisdiction over claims against the United States or any matter affecting the remedy that claimants might have. That question would either go to the Judiciary Committee or the Committee on Public Lands which deals with Indian affairs.

So it seems to me what this committee should do, and the only thing it can do under the circumstances, is to pass this legislation and let the proper committee of the House at the proper time determine the rights of these claimants.

Mr. ZIMMERMAN. May I make a suggestion in line with what you said there?

The CHAIRMAN. Yes.

Mr. ZIMMERMAN. Section 3:

All receipts from the sale of timber or from the sale of lands under section 2 of this resolution shall be maintained in a special account in the Treasury until the rights to the land and timber are finally determined.

What else would you need?

The CHAIRMAN. That might be all that is necessary. I would prefer to look into the question a little further, and particularly I want to hear the counsel for the Indians and see what suggestions they have in order that their rights may be fully protected. I do not want to express an opinion on that until I have given the matter further thought.

Mr. CLEVINGER. It seems to me this is the sale of the timber and the land will remain in the hands of the Government.

Mr. POAGE. They cannot sell this timber off that land if it belongs to somebody else. If the land belongs to the Indians or to somebody other than the Government, and the Government comes along and sells the timber off it, even though the Government does not sell the land, then the actual owner of that land has a right to be reimbursed for the damage done the land.

Mr. CLEVINGER. The Government contends they are the actual owners in this case.

Mr. POAGE. The Government maintains the Government is, yes, but they want to leave the door open so these people can be heard in court.

Mr. CLEVINGER. The claims are nebulous, to say the least.

Mr. POAGE. Is not the court the proper place to determine whether they are valid claims or not.

Mr. CLEVINGER. We are paving the way for them to get into court.

Mr. POAGE. This bill is trying to say the Congress should determine, but the courts should.

Mr. CLEVINGER. I think we are wasting time.

Mr. GOFF. I also think we are wasting a lot of time discussing something that could be taken care of in conference.

Mr. POAGE. I am willing to leave it in abeyance, but I do not want to express the claim that Congress has the power to settle it.

Mr. GOFF. I think Mr. Vanech can come up with language that would be satisfactory. I think he was as surprised as I was at your objection, but I think with a slight change of wording it will make it plain that all the Congress is going to do is to provide the procedure.

The CHAIRMAN. Let the Chair suggest these are all matters that the committee will discuss in executive session on the legislation, and I think at this time we can very well forego further discussion.

Mr. COOLEY. I would like to ask a question.

The CHAIRMAN. Mr. Cooley.

Mr. COOLEY. What is the size of the area involved?

Mr. HEINTZLEMAN. The Tongass National Forest encompasses 16 million acres of the land. These Indian claims have covered a considerable portion. I believe Mr. Gardner this morning said something like two-thirds of the national forest has been covered by Indian claims of one sort or another, but the Interior Department has made a tentative determination where those asserted claims may have some validity, and that area under that determination covers about 8½ to 10 percent of the national forest timberland.

Mr. COOLEY. That is all.

Mr. GOFF. I have one question, Mr. Chairman.

The CHAIRMAN. Mr. Goff.

Mr. GOFF. Governor Gruening, give us just a little more background on this situation. In other words, what do these Indians do, and how do they live? Do you know they have asserted any particular claim yet?

Governor GRUENING. The Indians live by fishing. Practically all their villages are on the sea with one exception. They are fishermen and they have lived by fishing from time immemorial. The use of timber has been very slight and only incidental to their personal use, the making of canoes, the making of wooden implements, firewood, and so forth. But if they have a claim to these lands over which they roam, I then understand the precedent is established that they can demonstrate they are entitled to some recognition. This is all a relatively new question as far as Alaska is concerned. It was brought up in the last 2 or 3 years, and it has not been hanging over the forest areas as a threat before that time. There are very few people in Alaska who are aware of this, and it is all a new development the last 2 or 3 years. That does not mean that the Congress and the courts have not recognized aboriginal claims for many years back, but as far as Alaska, and southeastern Alaska in particular, it is a very recent thing, and it is still in a wholly nebulous state. No one knows whether they have a claim at all. They may not have any, or the courts may decide otherwise.

But I think that those of us who are concerned for Alaska are concerned with two things. We want to improve the economy of the native population of all Alaska, and we do not want to see them deprived of anything rightfully theirs. However, it seems to me there is great danger while chasing the will-o'-the-wisp of any possible claims for them we will lose more advantages for them that will come to them in utilization of the region and of unutilized resources and opportunities for a great deal of all-year-around employment for them.

I hope that nothing will happen that will prevent this development. The people who live there all year around, who are preeminently natives in this section, will be the chief losers if this project does not

go through, and if mistaken agitation on their part for some monetary advantage in the future prevents this from happening.

I think I can say fairly that no one has been any more concerned for the welfare of the native people of Alaska than I have. They are rising in the economic, social, and political scale. We have three members of our legislature who are Indians, one member in the Senate and two in the House. They are splendid representatives; they can hold their own with anybody; and we are very proud of them.

In general I would say that the Indian of Alaska does not want to be segregated, to be favored, or to be discriminated for or against. He wants to be a full-fledged citizen, and there are aspects of this type of legislation that may seriously injure him, if it puts him in a category apart; if it prevents normal development because of some claims made for him, and they are often made for him rather than by him, I think he is going to be the loser and all Alaska is going to be the loser.

MR. GOFF. Then you properly feel, as Governor of Alaska, you are here representing those Indians just as much as any other residents of Alaska?

Governor GRUENING. I certainly am.

The CHAIRMAN. Governor Gruening, I have several telegrams here, most of them from officials of certain camps of Alaska Native Brotherhood. What is that organization?

Governor GRUENING. That is an organization which was originally fraternal and now has become somewhat affiliated as a labor organization, which is there to protect the rights of the aboriginal people, particularly in southeastern Alaska. That organization has been almost wholly confined to the groups in southeastern Alaska who are primarily Tlingits.

The CHAIRMAN. An expression from that group would represent some considerable number of the Indians who are affected by this legislation, would it?

Governor GRUENING. Yes, sir, it would.

The CHAIRMAN. That is the people who send these telegrams would be authorized to speak for the native population, a part of it at least?

Governor GRUENING. That would depend on who signed them.

There are various factions in this group, and they do not always agree.

The CHAIRMAN. Some of these are signed by people as officials of some camp of the organization. Here is one signed by Clarence Peele, vice president of the Alaska Native Brotherhood. Here is S. A. Stevens, secretary, Doubles Camp, ANB. Another signed by the Indians Alaska Native Brotherhood and Sisterhood, and another one signed by Ruth Bronson, secretary, National Congress of American Indians. I am familiar with that organization.

Here is one signed by William L. Iaul.

Governor GRUENING. It should be William L. Paul, Jr.

The CHAIRMAN. It should be William L. Paul, Jr.?

Governor GRUENING. Yes, sir.

The CHAIRMAN. Secretary, Grand Camp, is that it?

Governor GRUENING. Yes.

The CHAIRMAN. The Grand Camp of the Alaska Native Brotherhood.

I just wanted to find out if that was a representative organization and one which had some authority to speak for the native people.

Are there any further questions?

Mr. BARTLETT. May I ask the Governor a question?

The CHAIRMAN. Yes.

Mr. BARTLETT. Governor, are there possibilities that Indians of southeastern Alaska might not favor this section where the receipts from timber sales are held in trust from cutting performed on land they think is theirs awaiting final determination? I wish you would give your opinion as to the value of the establishment of a pulp industry in southeastern Alaska as far as the Indians themselves are concerned. Would it help them economically, tend to provide additional employment for them, considering the fact their employment now is almost exclusively seasonal in fisheries?

Governor GRUENING. I think I stated that I know of no one thing that will be more beneficial to the economy of the Indian population and the development of this pulp and paper industry. We assume it will employ several thousand people. We hope and assume that unskilled and semiskilled labor will be taken from Alaska as far as possible, that residents will be given preference in employment up to the extent of their capabilities. Certainly every effort will be made by the territorial administration and the Alaska Native Service and all others concerned to see that is done. If that happens, it means a new day in the Indian economy. It means that instead of being obliged to subsist for 12 months on the rather uncertain earnings of three or four months' fishing, they will have something that will keep them employed all year around, and I can think of nothing that will equal that in benefit, more than any relatively minor payments they might get out of the fraction of the stumpage.

I think we should bear in mind the question of Indian claims is extremely uncertain. They may not be entitled to anything. They may be entitled to something. It is a highly controversial question. This bill, it seems to me, does everything for them except give them cash for something they may not be entitled to.

If you find objection to this bill from these camps, I do not know, but I suspect it is because they have been led to believe there was a pot of gold there waiting for them, and they are entitled to have some of it right away. I think if that idea has been sold them, it is unfortunate and unjustified, but if they are entitled to any of this, they certainly will get it under this legislation, although possibly they may have to wait 2 or 3 or 4 years before it is determined. But meanwhile they have greater advantages of permanent employment. So that, viewing this wholly from the standpoint of the native, leaving all other people out of consideration, I can think of nothing more unfortunate than if this measure should be impeded or delayed or killed by reason of mistaken opposition, at least what seems to me to be mistaken opposition.

The CHAIRMAN. How fully has this proposal been explained to the native population?

Governor GRUENING. I doubt whether it has been fully explained because it is of such recent origin. You see various forms of legislation have been tried and Mr. Gardner in pursuit of a bill that would meet all these conflicting interests had various drafts, and in one earlier draft there was a proposal that 10 percent of the receipts from stumpage should be set aside for the Indians. That was objected to by various groups. I think it was objected to by the Department of Justice. Mr. Vanech can probably answer that more fully. It was objected to by others who felt that it constituted an admission of the validity of these claims. But this draft, having once been circulated, and holding up the possibility of cash payments has naturally made a subsequent draft in which there are no cash payments look less attractive; and that is one reason I suspect why there may be opposition.

The CHAIRMAN. The Chair might say that these telegrams do not necessarily imply opposition. They simply ask for time in which they can study the matter and confer with counsel. And that was the occasion for my questions as to how fully the proposal had been explained, because the wires indicated that perhaps it was not fully understood.

The GOVERNOR. Mr. Gardner informs me Mr. Don Foster, Superintendent of the Alaska Native Service, has gone back from Washington to explain it to them. I want to say this. One is naturally always inclined to be a little bit cautious about legislation to which is attached a plea: "We must hurry. We have got to get this thing through." People always say, "What is the motive behind this great speed? This is an important question; why can we not wait?"

That is very often a very valid argument, but in this particular instance I feel it can be demonstrated it is important to act. We have in Alaska a highly seasonal factor. If you lose a few months, you often lose a whole year. This has been waiting a long time. We know the situation of the newsprint market. We know the economy of Alaska is not in very good shape now. If for one reason or another this bill were not to be acted upon at this session of the Congress and goes over to the next session of Congress, we do not know what is going to happen. It is going to be a Presidential year, and things often do not get passed in a Presidential year. You may get a different situation in the world of finance.

I am firmly convinced, as much as I could be of anything, that what we are after is beneficial beyond controversy for all concerned. I know of no one who will not be benefited by what we are trying to do, including and especially the native people. But I can understand how they would be apprehensive, perhaps a little suspicious, fearing maybe their claims are being jeopardized, and it is natural to want to know more about it.

What we have got to try and do here is to get that knowledge to them as quickly as possible in such a way that if Congress is disposed to act favorably on this legislation it can do so at this session.

Mr. COOLEY. Roughly, how many people are there?

Governor GRUENING. In southeastern Alaska about 25,000 people, of whom approximately one-fourth are Indians, about 6,000.

Mr. COOLEY. I wonder if any department of the Government has a list of the names of possible claimants?

Governor GRUENING. They would be villages, tribes; there would be no individuals, or very few individuals. There might be some, but generally speaking this goes to the whole question of native occupancy from way back in time immemorial.

The CHAIRMAN. Mr. Bartlett, have you something further?

Mr. BARTLETT. I want to say, Mr. Chairman, I was told that the establishment of a pulp industry in southeastern Alaska might endanger the entire salmon fishery there by reason of the chemicals from the pulp mill desired. If necessary to make a choice between the two, it would be a mighty difficult thing. I have reason to believe that that apprehension might possibly have been among the Indians up there. I had to leave the hearing early and do not know the testimony presented, but if not, we should have the scientific viewpoint of the Forest Service and Fish and Wildlife.

The CHAIRMAN. That was covered.

Governor GRUENING. There is a further point, also; that we see enterprises we think should come to Alaska going to Canada, and we have found that if conditions are not favorable, if we do not meet the necessary requirements for capital to invest, they are likely to go there. A great deal of development has gone into Canada that we feel could properly have gone to Alaska which is under the American flag, and I think that is pertinent to this issue. I think there would be more investment in Canada for this pulp and paper if we do not go ahead with this. We would like to see some in Alaska where it can pay taxes to the Federal Treasury and employ American citizens.

The CHAIRMAN. Any further questions?

(No response.)

The CHAIRMAN. If not, we thank you very much, Governor Gruening.

Governor GRUENING. Thank you.

The CHAIRMAN. I think that exhausts the list of witnesses which we have today. However, Mr. Curry is here, and I understand he represents some of the Indian groups, perhaps all of them. He has requested that the committee arrange at a later date to hear him as a representative of the Indians, and I presume others would want to be heard at that time. I would like to ask Mr. Curry how soon he thinks it would be possible for him to present the viewpoint of the Indians.

Mr. JAMES E. CURRY. Mr. Chairman, I might say first, I want to assure you and Governor Gruening too, that there is no disposition on the part of the Indians or any others who may have an interest in this forest area, because there may be others besides Indians, to hold up the industrial development of Alaska.

I represent, I think, all of them now. I represent them only since yesterday, and I am sure they will not do anything that will hold up unnecessarily the industrial development.

If all of this speed is necesasry we will find some way to accomplish it and act quickly, but I think the people there would object seriously, as they have, I believe—they sent me a cablegram and I believe they have sent some to the chairman—to the thing being done without consulting them at all. There has been a lot of discussion of all the consultation that has gone on for 25 years, I guess, but nothing has been said that anybody has been consulted excepting people in the Government. The Indians themselves have not been consulted. They have sent someone up there now to talk to the Indians. The Indians have appointed me counsel, and we can discuss it here and perhaps we can come to some understanding. I do not know. I have in mind a number of the same questions raised here by the members of the committee. I share some of the doubt Mr. Poage has about whether this will actually do what it is intended to do, namely, give them valid right to be financed.

As soon as I found out this morning the names of the people involved, I called up, and I have a date with them tomorrow morning to discuss the matter in New York. They do not even have counsel. In fact, they do not have a telephone up there. I have not found out yet the name of the second company which is supposed to be bringing the industry to Alaska.

I would say in order to discuss this matter with all the people involved, including all of those who have spoken today, I ought to have a couple of weeks, and that is why I called the chairman yesterday and had that understanding; and I also talked to Mr. Gardner and he said he would not object.

The CHAIRMAN. I think it is only fair that the Indian claimants should have an opportunity to be heard and at least have a better understanding of this matter.

At the same time, the Chair does not feel it should be held up for too long a time. It is very apparent that this is an important matter not only to the Territory of Alaska but from the standpoint of getting additional pulp and newsprint supplies at the present time when they are badly needed. Certainly if we delay the matter to long, there is doubt as to whether legislation could be enacted at this session, which will end definitely on July 31, if not before. The Chair sees no objection to giving you a couple of weeks if it will take that long to get the information that you will need in order to present the matter to the committee. I am not sure just what day the committee will be able to meet and consider the matter. We have some other matters set. We will try to accommodate you as soon as we can after that time.

I would like to ask Mr. Gardner, do you see any objection to that procedure?

Mr. GARDNER. I do not, Mr. Chairman. As a matter of fact, since I appeared this morning, I have discussed it with the chairman of the Public Lands Committee of the Senate and have suggested to him 2 weeks from today would be an appropriate time for the Senate to consider this matter because by that time I expected to have the native views.

While I am here, may I suggest Mr. Curry may want to correct the record when he said I had not consulted with the natives. I had with Mr. Curry for about 2 months past.

Mr. CURRY. I would rather not discuss it; it might lead to an argument, and I do not want to argue with you.

Mr. GARDNER. I have discussed it with Mr. Curry or people who I thought were Mr. Curry's associates.

The CHAIRMAN. If you have the next 2 weeks in which to ascertain the views of your clients and to make an effort to reach some agreement with all parties concerned, then when you appear before the committee, we may reach an understanding among all interested parties. In that case I am sure there will be no difficulty about the enactment of the legislation.

Mr. CURRY. You can be sure I will do my best to work that out.

Mr. COOLEY. May I suggest, suppose the gentleman finds he is ready in 1 week, could he not notify the chairman and dispose of it then rather than put it off for 2 weeks.

The CHAIRMAN. The Chair did not have in mind any definite date, but had in mind an approximate time and hoped it would be within that time, that Mr. Curry would be in a position to appear before the committee. I cannot say at this time just when the hearing will be. We have other things which are pressing. But we will consider it at the earliest possible date, with the understanding we are not going to crowd you.

Mr. COOLEY. Mr. Chairman, you said a moment ago it might be well for Mr. Curry to get together with the idea of working out something we could agree upon. Do you mean to suggest after conferring with his clients he get together with Mr. Gardner with the idea of working out language they could agree on and bring it here?

The CHAIRMAN. My understanding from what Mr. Curry said just now, and what he previously said to me, was that after they had investigated the matter the proposal might be entirely agreeable to his clients. He wants time to investigate it, and I presume to discuss it with the pulp companies going in there and with Mr. Gardner and any others who might be interested. That is what I had in mind.

Mr. CURRY. Mr. Chairman, I would like to discuss it with the companies if I can find out who represents them. That has not yet been stated. One of the companies has been named but the other has not.

Mr. COOLEY. Cannot Mr. Gardner give you that information?

Mr. GRANGER. Mr. Chairman, in my testimony I read a letter from one of the companies and said another company had not had time to get a letter to us for this hearing. The second company requested its name not be placed on the record at this time because it is engaged in some operations incident to undertaking this proposed development up there which it thinks might be prejudiced if too much publicity is given to its intentions. So for that reason I had not intended to offer the name of the second company for the record.

The CHAIRMAN. You are in touch with the company, I take it. Would there be any reason why you could not suggest to that company that they get in touch with Mr. Curry, or give him an opportunity to get in touch with them?

Mr. HEINTZLEMAN. I will be very glad to do that.

The CHAIRMAN. All right.

Mr. CURRY. Mr. Chairman, I will assume I have up to 2 weeks and will do better if possible.

The CHAIRMAN. Anything further on the part of any representatives of the Government departments?

(No response.)

The CHAIRMAN. If not, the committee will adjourn until 10 o'clock tomorrow morning, and as far as this matter is concerned, we will consider it again at some future meeting at the call of the Chair.

(Whereupon, at 3:45 p. m., the committee adjourned subject to the call of the Chair.)

TONGASS NATIONAL FOREST

SATURDAY, JUNE 14, 1947

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D. C.

The committee met at 10 a. m., Hon. Clifford Hope (chairman) presiding.

The CHAIRMAN. The committee will come to order.

We have met this morning to hear Mr. Curry, representing the native claimants who are involved in the legislation under consideration, House Joint Resolution 205.

The committee had not intended to proceed with further consideration of the matter at this time—we will a little later—but Mr. Curry has to leave the city soon and we have arranged to hear him. You may proceed, Mr. Curry.

STATEMENT OF JAMES E. CURRY, COUNSEL FOR CLAIMANTS, WASHINGTON, D. C.

MR. CURRY. Mr. Chairman, I appreciate very much your having made this special arrangement this morning, and I would like to reciprocate by not taking too much time of the committee.

I have a very extensive statement that took me about 3 hours before the Senate Committee on Indian Affairs, but I thought it would be better if I should limit myself here this morning to making an outline of what I have to say and submit a more extensive supplemental statement in writing, which would make it possible for the members of the committee to question me to the extent they like and still not limit me by excluding anything that ought to be put in the record.

The CHAIRMAN. Yes; without objection that may be done, and I am sure it will be agreeable to the committee.

(The statement referred to is as follows:)

STATEMENT OF JAMES E. CURRY TO THE HOUSE COMMITTEE ON AGRICULTURE REGARDING HOUSE JOINT RESOLUTION 205

I am submitting this statement pursuant to leave granted today, June 14, when I limited my testimony to an outline of my contentions and the answering of numerous questions raised by members of the committee. In order to avoid delay, I am submitting it without revision in the form in which it was dictated for oral delivery.

My name is James E. Curry. I am an attorney with offices in the city of Washington. Under general contracts with town councils and Indian associa-

tions which are either completed or subject only to the formalities of execution, I represent all but one of the Indian communities in the Tongass National Forest. I am also attorney for the Tlingit and Haida Indians of Alaska, an organization established by act of Congress to prosecute for all Indians of these two tribes claims accruing to all or any of them against the United States prior to 1935. I am also general counsel of the National Congress of American Indians, an organization composed solely of persons of Indian descent. Judge N. B. Johnson, of Claremore, Okla., is president and Ruth M. Bronson, of Washington, is secretary of this organization. Most of the Indians of southeast Alaska are affiliated with the NCAI, either directly or through its affiliate, the Alaska Native Brotherhood and the Alaska Native Sisterhood, organizations which Dr. Gruening described in his testimony. Mr. Cyril Zubov is president of the ANB and William Paul, Jr., an attorney of Juneau, is its secretary. He is also associated with me as attorney pursuant to some of the contracts above described. Mrs. Amy Hollingstad of Petersburg, Alaska, is president of the ANS.

I appear here today on behalf of a group of about 7,500 landowners in Alaska. I want to thank the committee for giving me the opportunity to speak on behalf of these people.

In the limited time I had to prepare and present their case, I had first to determine their wishes. Although it was impossible to do that job as it should have been done because of lack of time and absence from the villages of many leaders—this is their fishing season—I did the best I could. I sent to each town a copy of the transcript of the hearing held 2 weeks ago, with a covering letter describing the bill. The towns all called meetings, considered the bill, and sent me telegrams requesting me to oppose it in their behalf. None state, however, that they want to keep the timber standing. They are all willing to cooperate in bringing progress to Alaska, to the extent of accepting a compromise of their rights, but they feel, and I think rightfully so, that cooperation does not require industry at any price.

In preparing the case for the Indians, as I told the committee I intended to do, I talked with officials of the various Government agencies involved and with some of the people interested in going into the pulp business in Alaska. I read as much as I could of the legal history behind this controversy and laws which have been enacted in similar situations. From 2 weeks of discussion and reading and thinking about House Joint Resolution 205 and possible alternatives thereto, I have put together the following facts for the consideration of the committee:

• SUBSTANTIAL CHARACTER OF NATIVE RIGHTS

This committee has been given the impression that my clients' rights are vague and tenuous, that they might be described as having only "nuisance value." The general idea seems to be that all they have is a claim against the Government for some unascertainable sum of money.

I think the committee should understand, first, that the rights of my clients are to the ownership and possession of real estate of substantial extent. This has already been admitted and adjudicated by a member of the Cabinet of the President of the United States. This admission was made in the course of a regular proceeding commenced by certain of my clients for the determination of their property rights. I refer to the decision of the Secretary of the Interior of July 27, 1945, on the claims of the natives of Hydaburg, Klawock, and Kake, Alaska, in which he had the following to say:

"Under the terms of that solution, it is found that some 273,000 acres, approximately 8 percent of the amount claimed by the three Indian villages which are petitioners in this case, have remained for 61 years or more in the exclusive possession of these villages, which possession is legally protected by the act of May 17, 1884, and several subsequent statutes. The claim of these villages to exclusive possession is denied as to the remaining area claimed."

The Secretary goes on to say the following:

"The right of ownership over limited areas of land, which is established by this adjudication, is substantially similar to the right of ownership enjoyed by other corporations or municipalities in other areas over which sovereignty has been acquired by the United States."

"These adjudications do not purport to settle the issue between the Indians and the United States resulting from past invasions of Indian property rights.

* * * The only effect of these *adjudications* is to advise the three petitioning Indian groups of the exact extent of the *property rights which have not been* taken from them or otherwise destroyed and, which they are still legally entitled to exercise and enjoy, and on the other hand, to advise non-Indians of the *areas within which homestead patents, mineral entries, fish-trap locations, and other forms of use or disposition of public resources can be validly enjoyed without encumbrance of Indian title.*" [Italics supplied.]

From this quotation of an official decision of the Secretary of the Interior, it clearly appears that the interests of my clients and the lands claimed by them are substantial. The above refers only to three of the towns represented by me. As to the balance, a report to the Commissioner of Indian Affairs, dated October 3, 1946, prepared by Walter Goldschmidt and Theodore H. Haas, who is the chief counsel of the Indian Service, provides what is called on its title pages, "A detailed analysis of the early and present territory used and occupied by the natives of southeastern Alaska, except the natives of the villages of Kake (partially treated), Hydaburg, and Klawock."

This latter report was prepared pursuant to official rules and regulations of the United States Department of the Interior authorized by statute for the purpose of determining the exact extent and nature of my clients' rights. Each of these two official determinations has attached an exact legal description of the territory owned by my clients together with plats showing its exact boundaries.

In opposition to this bill, I intend to show—

(a) that this bill is of a type which tends to weaken those provisions of our law and Constitution and congressional tradition which are intended to protect free private and local enterprise;

(b) that this bill imposes a heavy and unnecessary burden upon the taxpayers of the United States;

(c) that the scheme incorporated in this bill is disadvantageous to the proposed pulp and paper industry of Alaska or at least less advantageous than some other plan might be;

(d) that the bill is injurious to the rights and interests of the people of Alaska;

(e) that the bill is injurious to the rights and interests of the Indian people;

(f) that this subject matter is not a proper field of action for Congress, but that the bill is meant to shift to Congress a responsibility which properly rests upon the Interior Department.

THIS IS A CONDEMNATION LAW

My statement that this bill tends to destroy the legal bases of free enterprise is based upon its nature as an exercise of the power of eminent domain. It is not apparent from the face of the bill that it is an exercise of the power of eminent domain. From a reading of the bill it would seem that it merely disposes of certain Government property. Section 2 of the bill says:

"The Secretary of Agriculture in contracts for the sale of national forest timber under the provisions of the act of June 4, 1897, as amended, is authorized to include timber growing upon any vacant unappropriated and unpatented land within the exterior boundaries of the Tongass National Forest in Alaska, notwithstanding any claim of possessory rights. All such contracts and sale heretofore made, are hereby validated."

Section 3 is couched in similar language and gives the Secretary of the Interior power to sell certain lands within the exterior boundaries of the forest without regard to claims of possessory rights. Section 2 (c) says that the purchaser shall have and exercise his rights under any patent issued or contract to sell or sale, made under this section, free and clear of all claims based upon possessory rights.

Early in his testimony, at page 41 of the transcript, Mr. Gardner indicated that he had had a number of proposals before him, one of which was a condemnation statute. The impression I received from what he said was that said alternative had not been accepted. However, when the representative of the Attorney General testified, under questioning, he clearly admitted that the bill is by nature a condemnation of property. As shown on pages 65 and 66 of the transcript, Congressman Poage inquired from Mr. Vanech, Assistant Attorney General, whether, pursuant to a statute like this, possessory rights granted

pursuant to Mexican or Spanish grants could be rendered void. And Mr. Vanech replied, "What you do there, Mr. Poage, when you pass legislation like that, you exercise the right of eminent domain."

Again, as indicated on page 68 of the transcript, Mr. Poage said to Mr. Vanech: "Congress cannot simply, as I understand American Government, pass a law and by edict of law say this land does not belong to you." Mr. Vanech again replied, "The Congress has the power to exercise eminent domain in the public interest."

To the extent that the Government is permitted to use this power of eminent domain, property comes under governmental control and domination. To the extent that the Government does not use the power, the property and business of that country remain in private hands. Ordinarily, therefore, the power of eminent domain is carefully circumscribed by specific limitation. It is my contention that this legislation disregards the usual constitutional and traditional limitations upon the power to take over private property into the hands of the Government.

The power of eminent domain may be exercised in either one of two ways: First, it may be exercised by taking control of the property while leaving the ownership in the hands of private individuals. This is the way that the power of eminent domain was exercised in the Fascist countries. So far as I know the Germans never took private property into the hands of the state, but limited themselves generally to interfering in its management and transferring ownership from one private person to another, say out of the hands of Jews and into the hands of other people, without ever actually taking title in the name of the German state.

This would be an unconstitutional taking for private use. We have a legal principle which is also an essential political principle for the American citizen which tends to prevent this sort of action on the part of the administrators. It is the rule that no property may be taken by the state excepting for a public use. John Lewis in his book on Eminent Domain, which has been a leading authority for almost 50 years, says:

"Only a few of the State constitutions in terms prohibit the taking of private property for private use. All courts, however, agree in holding that this cannot be done. Different courts find different reasons for this conclusion, some putting it on the grounds of an implied prohibition, in the eminent domain provision of the constitution, some on the grounds that it would be contrary to the provision that no person should be deprived of his property except by law of the land, others on the ground that it would be subversive of the fundamental principles of free government or contrary to the spirit of the Constitution. The conclusion is undoubtedly a correct one and is too well settled by authority to necessitate any inquiry into the true grounds upon which it rests."

It is my contention that this bill provides for the taking of private property for a private use and therefore is a violation of our essential political and legal principles.

It might be contended that the purpose of this taking is not really to aid the pulp companies, who are to be given the use of the timber belonging to my clients, but really to aid the general public by the establishment of a new industry and by bringing to them the benefits that flow from industrialization. However, it has been clearly held that the purpose of aiding private enterprise, even for the purpose of bringing attendant benefits to the public, does not transform a taking for private use into a taking for public use. On this subject American Jurisprudence has the following to say (sec. 15 of its article on Eminent Domain):

"It may be taken as established law that incidental benefits accruing to the public from the establishment of a large factory, mill, department store, or other industrial or commercial enterprise is not a valid ground for ranking such an enterprise as a public use and entrusting it with the power of acquiring a suitable site by eminent domain. Private enterprises that give employment to many and produce various kinds of commodities for the use of the people are not necessarily public uses. Every legitimate business, to a greater or less extent, indirectly benefits the public by benefiting the people who constitute the state. But that fact does not make such enterprises public businesses. * * * When the door is once opened to it, there is no limit that can be drawn. Every honest employment is beneficial to the public and deserves encouragement, but it is not the function of the state to make discriminations in favor of one employment against another."

This principle was recognized by Congressman Poage when, as indicated on page 69 of the transcript, he said:

"If the court decides that land belongs to the aborigines we can pass laws from now till next summer and say it belong to Orville Zimmerman and it still will not put title in Mr. Zimmerman."

Again, as indicated on page 86 of the transcript, Mr. Poage said:

"I have been disturbed about the phraseology of this bill, not as it relates to Alaska, not as it relates to anything you claim or that the Indians claim, but rather the claim that is made in behalf of the Congress, which I do not want to be a party to making any such claim for such arbitrary power in a democracy. I do not think the Congress of the United States has the power to take my property away from me and give it to somebody else, or give me somebody else's property."

And again he said:

"I am not criticizing anything that Alaska claims, or that the Indians claim, but I am criticizing the putting of Congress in a position where it puts itself up as superior to all courts in this land, and the possessor of arbitrary power to divest one man of property and give it to another."

This question, as to whether or not Congress really has power to take property away from my clients and turn it over to the pulp and paper corporations appeared to me upon reading the bill. However, at the House hearing nothing was said by the proponents of the legislation to justify their method of proceeding. So I inquired at the different departments as to their justification for it. At the Department of the Interior I was told that it was supposed that somebody would bring up the old public-purpose doctrine again, but that was not a cause for any particular distress. At the Department of Justice I was told that the Department never presumes to tell the Congress that a bill before it is constitutional or unconstitutional. If the Department of Justice will not presume to advise Congressmen as to the validity or invalidity of a proposed law, it seems that I should not ordinarily presume to do so either. However, I don't think that this committee should recommend legislation which will be set aside by the courts and that, because of its invalidity, will only serve to raise false hopes in the hearts of its sponsors.

It may well be that the person who spoke of this constitutional rule as the "old" public-purpose doctrine represents a more modern view of the law than I do. Certain it is that the courts have been taking a much broader view of proper functions of the Government in recent days than they did in the past. But I don't think that the courts will ever come around to the point of deciding that a private business has a right to acquire its raw materials through the use of the Government power of eminent domain. And even if the courts should eventually make such a ruling, there is sufficient doubt about it that no proper bond lawyer would advise his clients to sink \$25,000,000 on the possibility that a court would so rule. The purpose of this legislation is to permit the investment of large sums of money in enterprises in Alaska. If the bill is void on its face, there is no use of adopting it. Whether void or not the bill would be sufficiently subject to attack so that no bank would feel free to invest money in an enterprise where property rights were based upon it.

It seems to me that the more normal procedure for the acquisition of raw material by a private industry is for the industry to negotiate with the owners of the raw materials. Nothing like that has ever been done in this situation. The prospective operators of the pulp mills have never come to my clients and asked them to sell, although there is every reason to believe that my clients would be willing to sell. In fact, when it became apparent that the pulp people were not going to approach my clients, I decided that it would be best for me to approach them and try to make a deal. This I did immediately after the first session of the hearings before the House committee, pursuant to telegram which I received from some of my clients authorizing me to proceed in that fashion.

I made a trip to New York and had a long and pleasant conversation with Messrs. Mitchell, Foley, and Swenson of the D. & F. Co., which is the organization that is expected to go into the pulp and paper business as a result of this legislation. While, as I say, the discussions were very pleasant, it soon became quite obvious that it would be impossible to make any deal directly with these private interests. This was not because they did not want to deal with the Indians, but because of interference in the matter by the very officials who are sponsoring this legislation. I reported this episode to my clients as follows:

"In general, I may say that these men impressed me as able and honest. They seem to be 'big operators' of the kind that could build up a big industry in Alaska. They probably have access to large amounts of money. I heard nothing from them to indicate that they might want to cheat your people. As I see it, they want to go into business there and get permits for that purpose. They do not particularly care whether they pay the United States Government or whether they pay their money to you. In fact, Mr. Foley expressed a very high opinion of Indian people who have worked for him in the past. But in this case he is 'caught in the middle.' For years now he has been dealing with the Federal Government in Alaska and elsewhere. The Government, of course, is very powerful. Businessmen who are on good terms with it are often very successful and get very rich, as these men seem to have done. Those who incur the enmity of the Federal officials are apt to encounter serious difficulty. This would be especially true of any business which needs national forest timber in order to survive.

"At any rate, they agreed that it was quite reasonable for their lawyer and your lawyer to come together and to discuss this entire question. Mr. Mitchell had told me, however, that the Federal officials should be given a chance to sit in with me and the other lawyers, which I accepted. I flew back to Washington early Tuesday afternoon, expecting to meet their attorney the next day. He said he would telephone the Forest Service about the whole question. At 3:27 p. m. on Tuesday, just as I reached my hotel here, I received the following telegram from Mr. Mitchell:

"Meeting arrangements complicated. Suggest you arrange with Granger of Forest Service who will confer with other departments. We will have D. & F. representative available to attend at request of Granger."

'(Signed) D. AND F. MITCHELL.'

"It seemed clear to me that the complications had arisen from Mr. Mitchell's talk with the Forest Service. If Mr. Mitchell is willing to send his lawyer to talk to me only 'at the request' of Granger, I feel quite sure that these companies will not take any step that they are not sure is acceptable to the Forest Service. Therefore, I am not hopeful of the results of said conferences. However, I intend to leave no stone unturned; I will talk to anyone who is willing to talk to me and try my best to explore all possibilities before taking a final position on this bill."

Mr. Granger never invited the company to sit in on a discussion with me. I talked about the matter to both Mr. Heintzleman and Mr. Gardner, but all I got out of them was a further attempt to talk me out of any further negotiations with the pulp and paper companies. I have since had discussions with some of the Bureau officials, but I have never again seen the pulp and paper people.

It seems to me that Congress ought not to pass legislation which will encourage this kind of interference with ordinary transactions between businessmen. I think it is perfectly clear from reading the bill and from seeing what goes on preliminary to its hoped-for adoption, that there is a tendency, which would be encouraged by this bill, for the Government to inject itself into what could well be a purely private transaction. This tendency ought to be discouraged; the best way to discourage it is to defeat this measure.

THIS WOULD BE A CONDEMNATION WITHOUT PROPER PROVISION FOR COMPENSATION

I have stated before that one manifestation of the overuse of the power of eminent domain is a tendency to interfere in affairs that ordinarily could be handled between owners of private property. The second manifestation of the overuse of the power of eminent domain is a tendency to take private property into public ownership. If the power of eminent domain is used to the ultimate degree in this fashion, all property becomes socialized. Our law and our legislative policy has set up safeguards against this possibility. These might be enumerated at length but there are at least three that might be mentioned. The first of these is the constitutional requirement for compensation to be provided for; the second is a general legislative policy that property shall not be taken without advance negotiations with the owners; the third is the firmly fixed policy that land shall not be condemned without first paying its value or depositing it in court.

It was the first of these, the requirement that condemnation laws shall make adequate provision for the payment of compensation to which Congressman Poage referred when he said, as indicated on pages 63, 66, and 70 of the transcript, the following:

"A court decision can determine and announce where those rights are, who has the right to this land, but if somebody owns that land today, Congress cannot come in here and pass an act divesting them of title without paying them for it. * * * You have got to pay him a reasonable value on the land, you have got to give the owner of the land an opportunity to come in and have his day in court. This says that the rights to the land and timber are to be determined by or under future legislation. What I am trying to get at is, Do you contend to this committee that rights which now exist * * * do you contend this Congress has the right to extinguish those rights simply by passing a law?"

There is nothing in this act which sets up "machinery" (as the courts call it) for the fixing or payment of compensation. To the contrary, the existence of such machinery is definitely negated by the provision in section 3 of the bill that—

"All receipts from the sale of timber or from the sale of lands under section 2 of this resolution shall be maintained in a special account in the Treasury until the rights to the land and timber are finally determined by or under future legislation."

If the rights are to be determined by future legislation, it is obvious that this law does not provide machinery for valuation.

That the sponsors of this legislation do not intend that the Indians shall have available to them any forum for determination of their rights is clearly indicated by the testimony of Mr. Vanech. Congressman Cooley asked him, "Why don't you put a period after the word 'determined' and strike out all the rest of the language?"

Mr. Vanech answered, "Mr. Congressman, we would not want any suits in the meantime until the procedure has been set up."

Mr. Cooley said, "What do you want with new procedure?"

Mr. Vanech said, "We do not want new procedure but we feel that it would be very helpful to the Government and there would be great saving to the [word missing] if we extinguish the rights of these claims and then bring them into court at one time. It is just a question of procedure."

It is perfectly obvious that Mr. Vanech does not want any suits to be brought, at least until some vague new procedure has been set up.

At one point in the testimony Mr. Gardner said that the Tucker Act would be applicable to this situation. But the language used in the law and the language of the witness of the Department of Justice seems to negative this possibility.

It seems to me that the provision of this statute supported by the legislative history above quoted clearly violates the rule requiring that condemnation laws contain adequate provision for the fixing and payment of damages. This rule is stated by Mr. Nichols in section 209 in his work on Eminent Domain, second edition, as follows:

"It is well settled in most jurisdictions that in the absence of a specific requirement in the Constitution, compensation need not be paid or even finally determined in advance of the taking provided that *reasonable, certain, and adequate provision is made at the time of the appropriation to ascertain and secure the compensation to be made to the owner.*" [Italics supplied.]

I don't believe that the provision that all receipts from the sale of timber or of lands shall be maintained in a special account in the Treasury could in any sense be called a provision for compensation. There is nothing in the law to indicate, or require that there shall be any connection between the price at which the timber is sold and the value of the timber.

However, even if this were intended as a provision for compensation, it may be meaningless. Section 3 provides for the deposit only of receipts from the sale of timber or land "under section 2." A careful study of section 2 indicates that no timber is sold under it. Section 2 refers to "contracts for the sale * * * of national forest timber under the provision of act of June 4, 1897." It would seem that the sales of timber are made, not under section 2, but under the act of June 4, 1897. It seems, therefore, that the only sums depositable under these sections are those for the trivial sales for a few pieces of land.

The second check which is usually placed upon condemnation proceedings is the requirement that compensation not only be provided for but also that it be paid in advance of the taking. In ordinary condemnation suits the Government files its petitions, a trial and valuation are held, a judgment is entered, the money is paid to the defendant, and then the title passes to the Government. It is only under the very special acts-passed by Congress for very special purposes that title passes before the money is paid. This is very desirable from the point of view of the Government not only to restrain the acquisitiveness of bureaucrats but also to avoid the danger that the Government will acquire property of which it does not know the value, finding, after judgment, that the amount required to be paid is out of line with the estimate previously made.

Congress has adopted the so-called declaration-of-taking law which authorizes the taking of title to property without going through the ordinary procedure of petition, hearing, judgment, payment, and taking. This authorizes the taking of title at the time of filing the suit. However, as a restraint upon the condemning agency, it is not much different from the ordinary procedure, the condemning agency is required to deposit the estimated full value of the property in court prior to the time of taking of title. (This statute is contained in title 40, sec. 258 (c) of the United States Code Annotated.)

There is another similar law which authorizes the Secretary of War to take immediate possession of land necessary for rivers and harbors purposes. It provides "that certain and adequate provision shall have been made for the payment of just compensation to the party or parties entitled thereto, either by the previous appropriation by the United States or by the deposit of moneys or other form of security in such amount and form as shall be approved by the court in which such proceedings shall be instituted."

It further provides that "the respondent or respondents may move at any time in the court to increase or change the amounts or securities and the court shall make such order as shall be just in the premises and as shall adequately protect the respondents. In every case, the proceedings in condemnations shall be diligently prosecuted on the part of the United States in order that such compensation may be promptly ascertained and paid."

The only general exception I know of to the policy of Congress requiring appropriation, deposit, or payment of money in advance of taking of private property is the provision in the Second War Powers Act, to the effect that the Secretary of War or Navy or other public official with the authorization of the President, "may cause proceedings to be instituted in any court having jurisdiction, etc., regarding property that shall be deemed necessary for military or naval purposes, etc.," and that "upon or after the filing of the condemnation petition, immediate possession may be taken and the property may be occupied, used or improved for the purposes of the said act, notwithstanding any other law." It seems that the Secretary of War or Navy or other official, with the approval of the President, may take possession of property necessary for war purposes without first paying or depositing the value of the property.

But this is strictly an emergency measure, passed only for the most important purposes of the defense of the Nation and the authority granted by it is terminated at the end of the war emergency. Still it is the same type of statute that the Forest Service and the Interior Department is now asking Congress to pass, for the purpose of expanding the size of the Tongass National Forest. I don't believe that the purpose of the bill is sufficiently urgent to justify Congress in adopting such a drastic measure. If Congress does adopt it with regard to the Tongass National Forest, it can well expect the bureaus to be back next year, with this precedent, asking for similar drastic legislation for nonemergency purposes. To the extent that Congress gives way to this request to unshackle the power of eminent domain and to remove the limitations upon it, it will be encouraging the tendency toward socialization of everybody's land and everybody's personal property.

The third common safeguard of private property against socialization by the process of eminent domain is the requirement for advance negotiations with the owner. Mr. Lewis' work on Eminent Domain, at section 301, says:

"Statutes conferring the power of eminent domain usually require that an attempt shall be made to agree with the owner of the property desired before instituting proceedings to condemn it. In whatever form of words this direction is couched, it is generally held to be imperative and a condition precedent to the exercise of compulsory powers."

This provision is not contained in the usual Federal condemnation law. However, it is omitted only because it is unnecessary. In fact, in the Federal Government the policy always is to negotiate first. Page 276 of the Eminent Domain Manual of the Department of Justice says:

"When the Federal Government requires property, the basic policy in all the acquiring agencies is to exhaust all possibilities of voluntary purchase before requesting condemnation. Experience has shown that too frequent condemnation rouses local resentment which is likely to hamper the project."

However, Congress has not hesitated in appropriate cases to lay down such requirements specifically to require advance negotiations. Examples are the laws authorizing the acquisition of land for the Cape Hatteras National Seashore, for the National Capital Park, for the Colonial National Historical Park, the Great Smoky Mountains Park, the Kennesaw Mountain National Battlefield Park, for the acquisition of military posts, for national cemeteries, for the Okmulgee Monument, for Pearl Harbor fishing rights, for Perry's Victory and International Peace Monument, for the National Battlefield Park, for properties of the Tennessee Valley Authority, for the Wild Rice Lake Indian Reserve, for the acquisition of helium lands and of lands under the Federal Water Power Act. Thus, the acquisition of Pearl Harbor fishing rights is subject to a provision that the Secretary of Navy is authorized to appraise private fishing rights and to enter into negotiations to purchase. The results of the negotiations are to be ratified by Congress. In the event that the Secretary is unable to make satisfactory purchase by contract, he may do so by condemnation, but the acceptance of the final award is subject to ratification by Congress.

It is clear in this situation that the Department of Justice and the other bureaus cannot be depended upon to follow the usual Federal procedure, to conduct bona fide negotiations. At the end of the last session of this hearing, it was understood by all concerned, and approved by the chairman of the committee, that I would approach the officials of the Government and try to come to an understanding with them. This I did in spite of the fact that they had excluded the private operators from the conversation. All that I can report back is that the representatives of the Government refused to bargain in good faith, that they insisted upon subjecting my clients to long court litigation, that will be costly to both sides, and will do inestimable harm to my clients.

To demonstrate the good faith that I tried to display in these negotiations, I will describe the basis on which they proceeded. The points on which agreement would have had to be reached were, first, the extent of territory owned by my clients, and, second, the amount of compensation that they would receive for the timber to be taken by the Government. I asked Mr. Gardner what would be his proposition on each of these points. He said that he would acknowledge Indian ownership only of what the Interior Department had already acknowledged on record pursuant to official reports of its officers and the maps and descriptions attached thereto. He said he would be willing to negotiate on the assumption that the Indians owned only what the Government of the United States has already admitted they own. While this was only about one-tenth of what my clients claim, he was not willing to concede them any more. This was certainly not a very generous offer. But I didn't dicker; I told him I was willing to proceed on those premises, subject, of course, to the approval of my clients. I told him that if the Government was willing to confirm the titles of my clients to the timber which the Government has already admitted was owned by them, I would submit to them a proposal to relinquish their title to all the rest of the timber in the Tongass National Forest, and also to sell their own timber to the Government.

As stated, the next point on which it was necessary for us to agree was the price at which the Government might acquire my clients' timber. I asked Mr. Gardner for his proposal on this question. He told me that he would negotiate on the basis of paying the Indians for the timber only the exact amount which the Government gets for it from the pulp industry. This also was considerably less than the amount which my clients might legally be entitled to. (Probably the timber taken is worth very considerably more than the amount that the Government is planning to sell it for.) But we are under very severe pressure from the Interior Department and others on various pretexts. Therefore, I expressed a willingness to submit to my clients the proposal of Mr. Gardner that they accept payment at the Government's own price for only so much

timber as the Government already has admitted we own, thereby settling this entire controversy on the Government's own terms.

I left Mr. Gardner's office full of hope that the controversy might be settled. He told me, however, that his proposal was subject to the approval of the representatives of the Department of Justice and the Forest Service. We were to meet the next day. When the proposal was submitted to Mr. Granger, he said it was utterly unacceptable to him. When he was asked what would be acceptable, he said that he would not agree to any concession whatever being made to my clients; and the Department of Justice supported him in his stand.

At that point Mr. Gardner indicated that his offer could not stand. I don't know whether it is the Department of the Interior or the Department of Agriculture or the Department of Justice that is refusing to negotiate in good faith with my clients. But it is perfectly obvious that the representatives of the Government want to take my clients' property without first making a bona fide attempt to come to an agreement. This is morally and politically wrong and Congress should not permit it to be done. It should incorporate in this bill, if it is to be passed at all, a provision that negotiations shall precede condemnation and that those negotiations shall be on minimum terms no less than the amount of money which the Government expects to get for the timber for an amount of timber no less than the amount that the Government has already admitted to be owned by my clients. If such provisions as these are not incorporated into the law, these men who are so stubborn about negotiations now will surely find some way to create an impasse, and to justify condemnation.

I don't mean to say that the Department of Agriculture took their astounding position without giving any reason for it. I might say that they gave not reasons but excuses. Mr. Granger's reasons for refusing to make any settlement with my clients were that it might be considered as an admission on the part of the Government that the Indians have some title to this land, which he was not willing to admit. This in itself is a ridiculous statement in view of the official findings of the Government that my clients are the owners of certain specified areas, stated by exact metes, bounds, and monuments. But assuming that the Government may one day admit and the next day deny my clients' rights, Mr. Granger's position is still untenable.

After all, my clients contend that they own a much larger area than the Government has admitted. When men disagree there are two possible alternatives; negotiation and settlement, or litigation. If businessmen took the attitude that Mr. Granger has assumed then no settlement could ever be made. Every disagreement would immediately be thrown into the courts and all the lawyers in the country would have to be appointed to the bench to handle the flood of litigation. Only because businessmen are willing to make concessions do they have any time to spend on their work; if they did not, they would spend every working day in court. Mr. Granger should be more business-like in handling affairs of the Government by which he is employed.

The Department of Justice likewise stated a reason for its unreasonable attitude, a reason which is equally invalid. Mr. Vanech stated that he would not listen to any proposal of settlement because his Department would thereby be creating a precedent against the Government. I am sure the lawyers on this committee will be surprised at this attitude on the part of our Government's legal representative. Everyone knows that legal precedents are created only by court cases, that even court cases do not create binding precedents unless they are carried to the highest courts. As a legal principle Mr. Vanech's point is specious. I am sure he has taken this position only on the insistence of certain subordinates in his Department (all good and competent men) who have gotten themselves involved in such hot legal arguments over Indian rights that they have lost all sense of proportion concerning them. The headmen in the Department of Justice seem to be quite sensible about this matter. In fact, it was only after discussing the matter with Mr. Vanech and Mr. Williams that I opened discussions of settlement with Mr. Gardner. But when the matter was taken up with their subordinates, these men had to change their minds and take the bull-headed attitude that I described.

This policy of negotiating with the owner of property before taking it away from him is the only one that is consistent with our Government's principles of free enterprise. It respects the right of a landowner to dispose of his property at will. It provides greater security of tenure, which is necessary for the operation of our system. It avoids irreparable damages which almost neces-

sarily flow from forcible expropriation without advance negotiations. It avoids excessive costs of liquidation and evaluation for both sides of the controversy and it eliminates an element of uncertainty as to the amount of compensation which tends to create inconvenience to both sides. In my opinion, Congress ought to require, before condemning this 10 percent of the Tongass National Forest, that the owners be notified and that bona fide negotiations be conducted. I think the only way that this can be done for certain is to require the negotiations to be conducted before Congress considers the passage of a condemnation law. But if Congress insists upon the passage of this condemnation law, I think that it should insert iron-bound requirements including minimum terms, which will force these people to enter into bona fide negotiations with my clients.

POSSESSOR TITLES SHOULD BE FULLY RESPECTED

The only reason that I can see that might be advanced for disregarding the traditional principles of Congress with regard to condemnation is the fact that the extent of my clients' titles are doubtful or that they hold "possessory" titles rather than titles based upon a record. Throughout this testimony there is the thread of a theory that the title of my clients and others whose property is to be confiscated under this bill are less valid or entitled to less respect because they are not based upon a record.

Mr. Gardner said that nobody in Alaska has a good title excepting those based on a patent from the United States. I am sure that this attitude would be shocking to many property holders in the West whose property rights are based purely on possession. It would be shocking to the Alaska Judge who decided the case of *Sutter v. Heckman*. In that case, Sutter acquired certain property from an Indian by the name of Charles Dickson. It was alleged that the complainants, and their grantors, since the said transfer and conveyance, had been in actual possession of the land so claimed and conveyed, had made extensive improvements on the land amounting to \$40,000 or more, and that possession had been open and notorious during all the years since the native Indian conveyed it to them. The land was located on the Tongass Narrows, near the present site of the town of Ketchikan and near the place where timber would be cut under this bill. The suit was for a trespass, said to have been committed by the Alaska Packers Association. The court held that the deed from the Indians "gave Berry the right to such uplands as were occupied by him on the said tide waters in which he and his grantees were and should be protected under the act of Congress *to the same extent that they would be under a patent*, until the Congress of the United States shall otherwise legislate." [Italics supplied.]

I don't know whether Mr. Sutter or his heirs have since obtained a patent to his land. But if not, and, if any of it happens to be unoccupied by a building, he may be running a chance that the Secretary of the Interior will sell it to some pulp and paper company one of these days. And according to Mr. Gardner's theory he would have no recourse.

The holder of lands purchased from Indians of Alaska is not the only example of holders of a possessory right. Another example is the mineral entryman. That the mineral entryman's rights are strictly possessory is shown by the description in Tiffany on Real Property which says that—

"Any citizen or intending citizen upon discovering a vein or a lode of minerals on public land may 'locate' a claim thereon by marking the limits of his claim on the ground. No property right is acquired by virtue of location alone unless preceded or supplemented by discovery. Upon discovery, the *possessory right* of a qualified locator is property and may be transferred, inherited, or devised." [Italics supplied.]

Another example of a purely possessory right is the right of a homesteader to his lands on the public domain. Tiffany says:

"Any citizen or intending citizen who is an adult or a head of a family who does not own 160 acres of land in any State or Territory and who has not previously exercised the homestead right, may make application for the benefit of the law, and this, if followed by bona fide occupation and cultivation of the land for 5 years, entitles him to a certificate and patent for the land without making any payment other than the land office fees."

If Congress permits my clients' possessory rights in Alaska to be treated as is proposed by the Department of the Interior, what is there to prevent people in the West who hold title to lands or mineral rights pursuant to the homestead law or the mineral entry law from being treated in the same way and on the same theory? These people complain that it is hard to tell whether my clients were in actual possession of this land (in spite of the fact that the Secretary of the Interior held that they were). They also say that it is difficult to decide just what area has been occupied by my clients. They could make exactly the same allegation with regard to homesteaders and mineral entrymen. If the mineral entryman's boundaries are merely staked out on the ground, it is certainly possible for doubts to arise concerning their extent. Certainly doubts can arise whether a homesteader has actually occupied his land or whether he has only pretended to occupy it. Doubts can arise as to the actual amount of land occupied by him. And doubts can arise as to whether he has actually cultivated the area or not. The same doubts can arise with regard to possessory rights holders in the States that have been posed with regard to my clients, possessory rights holders in Alaska. If the mere existence of doubts is sufficient to justify a law disregarding the existence of a possessory title, then all such titles would be put into jeopardy. In my opinion, Congress should be just as solicitous about protecting the possessory rights of my clients and of other people in Alaska from confiscation by these bureaus as it would be if those rights were based upon records duly filed in the office of the registry of deeds.

A recent manifestation of the United States Supreme Court's tendency to respect titles even though they are not supported by record is the case, decided by that Court on May 12, 1947, entitled "*United States of America, petitioner, v. Leslie Fullard Leo.*" This was a suit to quiet title to a certain tiny island in the Pacific known as Palmyra Island. Defendants claimed title under a series of transactions which began in 1862. Possessory title was first received by a grant from the King of Hawaii but not evidenced by any formal deed. The defendants invoked the theory of the lost grant on the basis of their possession over a period of 80 years. The most they could show concerning their possession was that they visited the island about every 7 or 8 years on the average. The Court held that this was sufficiently continuous to raise the presumption, saying "uninterrupted and long-continued possession does not require a constant actual occupancy where the character of the property does not lend itself to such use. No other private owner claims any rights in Palmyra. From the evidence of title and possession shown in the record we cannot say that the decrees below are incorrect." The Court quoted with approval a statement in the case of the *United States v. Pendell*, that—

"What constitutes such possession of a large tract of land depends to some extent upon circumstances, the fact varying with different condition such as the general state of the surrounding country, whether similar land is customarily devoted to pasturage or to the raising of crops, to the growth of timber or to mining or other purposes. That which might show substantial possession exclusive in its character where the land was devoted to the grazing of numerous cattle might be insufficient to show the same kind of possession where the land was situated in the midst of a large population, and the country devoted, for instance, to manufacturing purposes."

It seems from the above, that the Supreme Court would recognize my clients' rights based upon their possession of this extensive territory as admitted by the Secretary of the Interior in the same way that it would recognize and enforce the rights of mineral entrymen and homesteaders. This Congress should do likewise. It should not adopt a bill which disregards the existence of my clients' possessory rights.

THIS BILL MAY IMPOSE A HEAVY AND UNNECESSARY BURDEN UPON TAXPAYERS

It must first be made clear that the taking of timber from my clients' land may constitute a taking of the land itself. Presumably, the taking of timber from any part of their land, and an indication that the balance will be taken, is sufficient to constitute the taking also of the balance of the timber contained on their land. This is admitted by Mr. Vanech in his testimony which appears on pages 64 and 65 of the transcript of the testimony. He says:

"Our job is just to see that the interests of the Government are protected from a legal standpoint. * * * There is no objection to us going in and taking

the land for the purpose of entering into this contract for timber, because we feel it is our land. However, you know and I know that if the court finds that the land belongs to someone else, that person is entitled to use his land as he sees fit. Now if the timber has been removed, even though we may pay him for it, he may then come back and ask for the value of the land, because possibly the land may no longer be any good to him. He may want it for some other purpose. If that is true, I just want to call to the attention of the members of the committee, that then we would be forced to pay him for the value of the land that has been found in court."

Ordinarily, Congress inserts a provision for a careful appraisal of the property prior to the time of the condemnation. The United States Code, title 40, section 258, provides that action thereunder "irrevocably committing the United States to payment of the ultimate award shall not be taken unless the chief of the executive department or agency or bureau of the Government empowered to acquire the land shall be of the opinion that the ultimate award probably will be within any limitation prescribed by Congress by the price to be paid." Mr. Andresen, who was chairman of the committee for some time, during the first session, saw this danger. As indicated on page 34 of the transcript he said:

"The only danger as I see it, is that we might not collect enough money for that trust fund to settle the claims when they are actually determined."

Mr. Gardner's only answer to this was that "if that is the case, as it may well be the case, there are ample remedies already on the books to recover a money adjustment for land which the United States has taken."

Obviously, Mr. Gardner was thinking of the landowner and not of the effect of the bill on the United States Treasury.

Mr. Andresen pursued the point further when he said: "It would be very unfortunate if you could not get enough money from the sale of the timber to take care of the claims. Of course we can see that some may be shady claims, but I would think that in selling them timber that point would be taken into consideration."

Later during Mr. Gardner's testimony, Mr. Andresen pursued the point again and said, "Is it your opinion that the amount involved in the claims will exceed the amount that the Government will get for the sale of the timber?" This time Mr. Andresen got a little more direct answer, but still not in my opinion, sufficiently direct to satisfy the requirements of common business sense. Mr. Gardner said that in his opinion "the natives are likely to establish their claims to something less than 10 percent of the area," and "that if they be paid the full value of the land, it would probably run in the neighborhood of two to three million dollars."

However, Mr. Gardner accidentally forgot to mention several other possibilities, namely, that the Government would have to pay not only the value of the land but also the value of the timber. That is not a possibility but a fact, and the timber is worth 15 times as much as the land. Of course, the United States is supposed to sell the timber at the same price that it is to pay the Indians but there is no certainty that the costs of administration will not consume all the proceeds.

Furthermore, Mr. Gardner's estimate fails to take into account the possibility that the Government would have to pay for more than the 10 percent estimated by the Department of the Interior to belong to Indian owners. Gardner himself says, on page 5 of the transcript, that southeastern Alaska was originally held almost entirely by native tribes, the Tlingits and Haidas. He says that they have the territory rather precisely divided among 13 villages, that the boundary of one would reach up to the boundary of the other, and that there was a fairly general understanding as to the land ownership of the several villages. It is indicated on page 21 of the transcript, in Mr. Gardner's own words, that "the native claims that they reach right back to the territory originally occupied by the native villages would cover about 12,000,000 to 13,000,000 of those 15,000,000 acres."

Therefore, Mr. Gardner's estimate of \$2,000,000 would have to be multiplied not only by 15 because of his failure to remember the trees but also again by the figure 6 because of the possibility that the Government might have to pay for the entire Tongass National Forest or almost all of it.

Mr. Gardner also fails to consider that the value of the timber may be worth more than the price at which the Government intends to sell. This may require that we multiply Mr. Gardner's estimates again by 2, or 3, or 4.

Furthermore, in his estimate, Mr. Gardner relied upon a figure of about \$2 an acre for the land. But this does not take into account what might lie under the ground. As indicated on page 21, Mr. Gardner says:

"It is at this point impossible to predict the mineral resources that lie under this land. We do know there has been a sizable gold development in years past in the neighborhood of Juneau. We know also there are valuable limestone deposits in southeastern Alaska. The rest of it I am not prepared to discuss and I doubt whether anybody knows too much about it."

Now we have multiplied Mr. Gardner's figures first by the figure 15, then by the figure 6, then by 3 or 4. I don't know what multiplier to use to determine what the Government may have to pay for the unknown mineral deposits.

The only thing I could say for sure is that this figure might be fantastic. I don't want to mention any specific figure because I don't want anybody to say that the people I represent expect to hold up the Government of the United States for any fantastic amount of money. At the same time I think it is completely fantastic for the Government at this stage of the game to take the position that it will not recognize any rights on the part of my clients, who have been in possession of this land from time immemorial and whose rights a few months ago were duly recognized by an official finding of this Government. I think that both sides ought to be reasonable, that the Government ought to negotiate some arrangement with the natives, some kind of a "swap" which would put an end to all these fantastic possibilities. I can assure you that the natives are in a mood to negotiate. I don't think this legislation is necessary.

THIS SCHEME IS DISADVANTAGEOUS TO THE PULP INDUSTRY

I would now like to demonstrate that this scheme proposed by the Interior Department, for the development of a pulp industry in Alaska based upon the confiscation of property, has sufficient disadvantages to the proposed pulp industry itself so that it ought to be carefully reconsidered before it is adopted by this Congress.

In the first place, we have the ever-present danger that this bill may be entirely unconstitutional and void for reasons that I have previously stated. We have no assurances that the industry will not find itself in the same position as the Santa Fe Railroad in the Hualapai case. Less than 2 months ago the Interior Department, which is now sponsoring this bill, issued a release which states that the Santa Fe Railroad had claimed the land under an 1866 grant from Congress and an Attorney General's ruling of 1931. Among other properties awarded to the Indians which up to that time the Santa Fe Railroad had considered to be its own, was 60 percent of the Santa Fe Railroad Station grounds at Peach Springs, Ariz., and 6,381 acres surrounding Clay Springs, a valuable source of water. Who can say that 60 percent of the grounds surrounding the proposed pulp and paper mills in Alaska, or perhaps 100 percent of them, may not in the future be awarded to the natives?

If this occurs, no one can say that these people did not have fair warning directly from the sponsors of the bill which purports to give them title. Thus, in his letter recommending this legislation, Secretary Krug says that if the native titles to a particular tract were a valid existing right on September 10, 1907, when the Tongass National Forest was established, that tract is not included within the national forest, and that in such cases one "relies upon the Government grant or contract at his peril." The record shows likewise that these investors have fair warning from the very members of this committee. Congressman Poage, in his examination of Governor Gruening, as shown on page 89 of the transcript, said: "Do you think this sort of language that Congress will determine who owns this land is going to satisfy anybody who is going to invest their money?" Throughout the discussion of this bill, Mr. Poage has clearly pointed out the constitutional difficulties involved. And the interests that are planning to invest their money have further fair warning from the fountain head of all Federal legal wisdom, the representatives of the Department of Justice, Mr. Vanech, when on page 65 of the transcript he says:

"You know and I know that if the court finds that the land belongs to someone else, that person is entitled to use his land as he sees fit."

And the dangers inherent in this piece of legislation are not confined to constitutional questions; there is also a serious danger that by its very terms the

title of the pulp companies is so defective as to cause them serious trouble in the future. Congressman Hill said to Mr. Gardner:

"It seems to me you mixed this up as much as you possibly could under the circumstances. * * * I suggest if we do pass this bill that all these attorneys form an organization in Juneau and hang out their shingle because they fixed this thing so there will be more lawsuits out there than there are fleas in some of the territories that I know about."

The reason for this confusion may be deduced from the terrific rush in which the bill was prepared. I have here a mimeographed copy of a memorandum to the Secretary of the Interior signed by Warner Gardner, Assistant Secretary, in which he says: "There is attached today's draft of this bill," and goes on to explain its contents. The bill attached to this memorandum is substantially the same bill that the Secretary of the Interior sent to the Congress on May 16, 2 days later. The memorandum shows that copies were sent to 11 different officials of the United States Department of the Interior. Presumably all of these had something to do with the consideration of the bill during the short 1- or 2-day period between the time of its preparation and the time that it was transmitted to Congress.

Certainly no one could expect that a bill prepared like that could be less full of holes than a piece of Swiss cheese. It is just impossible to draft legislation transferring real property in this rapid way. The results of this sort of work are plain upon the face of the bill.

There appear immediately at least two provisions which may give the industry very serious difficulties in the future. The first of these is a provision in section 2 which authorizes the Secretaries of Agriculture and Interior to transfer certain timber on "vacant and unappropriated land," and to transfer the land itself, if it is "vacant and unappropriated." Do the pulp and paper companies expect to get title to Indian timber under this provision? If so, they may be very sadly disappointed. The same attorney who drafted this legislation was the Solicitor of the Department of the Interior at the time the Secretary of the Interior Ickes confirmed his findings in the case of Hydagurg, Klawock, and Kake. The decision in those cases states on page 5 that—

"From May 17, 1884, to the present day, the natives of Hydagurg have continuously and exclusively occupied and used and claimed as their property an area in the immediate vicinity of the village of Hydagurg amounting to approximately 101,000 acres and described as follows: Beginning at a point at the head of Soda Bay approximate latitude 55°, 17' north, longitude 132°, 55' west, etc., etc."

The decision goes on to describe in very exact terms the land which has been "continuously and exclusively occupied and used" by the natives of Hydagurg. It seems to me that there are at least 101,000 acres which are not included within the classification of "vacant and unappropriated." In the same decision the Secretary found that the Kake Indians occupied and used certain lands and made similar findings with regard to the natives of Klawock. In later proceedings conducted by Mr. Krug's employees, Messrs. Haas and Goldschmidt, similar determinations were made with regard to all of the other towns in the Tongass area. Now the question is, and I think it is a very substantial one, whether a bill transferring "vacant and unappropriated lands" is effective to give title to the land which the transferor himself has held to be "exclusively occupied and used" by someone. This land cannot be "exclusively occupied and used" and at the same time be "vacant and unappropriated."

There is another provision in this bill that will give the lawyers something to work on after it is adopted. That is the provision in same section 2, that the land and timber to be conveyed must be "within the exterior boundaries" of the Tongass National Forest. In order to determine where the exterior boundaries of the Tongass National Forest are, one must take a look at the proclamation by which the Tongass National Forest was established. This proclamation has a proviso:

"That this proclamation shall not be so construed as to deprive any person of any valid right possessed under the treaty for the cession of the Russian possessions in North America to the United States, concluded at Washington on the 30th day of March 1867, or acquired under any act of Congress relating to the Territory of Alaska."

As I will show later, Indian lands in Alaska, which surround the various villages, are protected not only by the treaty with Russia, but also by subsequent legislation referred to in the President's proclamation. All of these lands are located on the outer edges of the forests. All of them, except one, is on the coast. Does not this fact automatically adjust the boundaries of the Tongass National Forest, so as completely to exclude the lands of my clients? This provision will require a little rewriting if the pulp industry expects to get good title to these properties.

Parenthetically, while I am discussing the question of the outer boundaries of the forest, I might make reference to the contention made herein that the land to be conveyed does not include land within the boundaries of the various cities of Alaska. It has been said that these cities are excluded from the forest, and therefore are not "within the outer boundaries" as provided in this bill. However, again a study of the map will indicate that, while areas like Juneau and Ketchikan are not included "within the forest" they are within the exterior boundaries, at least to the same extent that the lands of my clients are within said boundaries, if at all. I say this only because I want it fully understood that the people who own property in Ketchikan and Juneau are not necessarily safe from the confiscations provided for in this measure.

Now I have described the various dangers, both constitutional and statutory, that lie in wait for the pulp industry if they presume to move into Alaska on the basis of this confiscatory legislation. From a study of these problems the question naturally arises, whether the interests that have the funds and ability to construct a pulp industry in Alaska are going to be willing to do so under this bill. There is evidence in these hearings that they are willing to go in. Thus Secretary Krug's letter to the chairman, a copy of which is shown at page 2 of the transcript, says that he is advised that "two of the five major pulp timber units in southeastern Alaska will be ready for development as soon as legislation of this nature shall be enacted." Mr. Krug's statement is not exactly categorical. He says the units will be ready for development. This means the trees will be ready for development; he doesn't say anything about whether the companies will be ready with their money for development.

Mr. Gardner also tried to enlighten the committee on the question whether this bill will bring a pulp industry to Alaska. As indicated on page 23 of the transcript he said that there are two concerns, who, according to his understanding, "are ready to start on the very sizable job which is necessary to put a timber mill into southeastern Alaska as soon as the question of the native claims can be cleared away." Again, the language is equivocal. What is meant by "starting on the very sizable job" and what is meant by "as soon as the question of the native claims will be cleared away"? Does it mean that when this bill is enacted, the companies will be ready to do something which will eventually lead to the establishment of a pulp and paper industry?

Mr. Granger is the man who is actually dealing with these companies. His testimony ought to indicate a little more definitely whether the companies are actually coming in. And he does say something quite specific. First, he says that these two concerns, one of which he leaves unnamed, "are ready to have timber offerings advertised and upon the completion of the advertising to submit bids for the purchase of the timber and to go ahead and enter into the necessary contracts with the Government for the cutting of the timber and the establishment of pulp and paper mills." This is quite specific. There seem to be no important qualifications although the promise to submit a bid does not specify whether the bid will be high enough to be acceptable. Mr. Granger carries his assurances a little further and submits to us a letter signed by one of the companies. This letter promises to submit a bid based on previous unrevealed conferences with the Forest Service. The letter contains an important "if." The "if" reads as follows:

"Provided that the Indian claims or the aborigine rights matter is satisfactorily cleared up by legislation or otherwise."

Now what does this big "if" in the letter of the D. & F. Co. mean? Does it affect the possibility of creating a pulp industry in Alaska when this bill is passed? The letter does not say that the present bill is adequate to clear up the question of aboriginal claims. I think it would be desirable for this committee to find out directly from these operators what they mean by these reservations. My guess is that they are coming to Alaska only if, as, and when they have made a thorough examination of this bill (after it has been passed) and have determined, in spite of all the considerations that I have mentioned,

that it will convey to them a good title to the timber. I think that's what I would do if I was about to invest \$25,000,000.

My guess also is that these people haven't yet made a legal analysis of this bill. Certainly they couldn't have done it after it was drafted, sometime after the 14th of May and before the time of its introduction on the 16th. I don't believe that they had any better counsel regarding the constitutionality and validity and the terms of this law than this committee has had so far; and this committee has received no counsel whatsoever on this subject from any of the Government lawyers. None of these lawyers has yet said frankly and openly, in such a way so as to commit himself professionally, that this bill is adequate to transfer to the pulp and paper companies an adequate title to the Indian timber.

Nobody knows the answer to this question, least of all the pulp and paper people. I have a feeling that, when they examine this law, after it is passed, they won't have the rashness to come in and operate under it.

The point of all this is that the Indians are being called upon to make sacrifices of their rights; Governor Gruening is urging them not to impede this travesty upon their common rights, because if they do, they will prevent the pulp and paper industry from being established in the Territory. I think it is unfair and improper to make such representations to the natives when there are very serious doubts, even if this bill were passed, whether any pulp and paper factory would be established under it.

I would now like to mention another important factor which may be injurious to this industry if it goes ahead in accordance with the present program. That is the factor of local resentment. After talking to these men I am sure that they want to work with the local communities. I am equally sure that, from the business point of view, that is the best thing for them to do. But I am also sure that if they ride rough-shod over these local people, the communities in which they will have to do their work are not going to be very friendly toward them. I have a letter from William L. Paul, Jr., and William Paul, Sr., which expresses this resentment to a certain extent:

"We feel that we are being unjustly put upon. If the D. & F. people want to get into Thomas Bay, the Wrangell Federation of Indians can very materially smooth the way."

Mr. Gardner recognized the cause for this resentment when he says at page 15 of his testimony:

"If your village once owned, we will say, a million and a half acres, and if your tribal tradition is that you used that land, and if nothing has clearly happened to show that it is no longer used, then it is exceedingly hard to explain to the natives that simply through the operation of the nonuse law they left their possession."

Mr. Gardner might well have added that it is particularly hard to explain this to the natives, if only a few months previously your own Department with your own approval has been representing very forcibly to these people that this land is theirs, and that they have as much right to it as anybody who has a deed or a patent from the Government.

I have still another cable coming directly from the very site at which the pulp company would be establishing its pulp mill, which may be of interest on the subject of local resentment. It says that "certain interests are using H. R. 205 to defraud us of our rights." It is signed by Peter Casey, chairman, and James Bradley, committeeman, for the Wrangell Federation of Indians. It states that Mr. Gardner's record "shows studied effort to violate our rights without due process."

Now I wouldn't say that the pulp and paper people ought to reverse their whole procedure just because somebody uses strong language. But I think they ought to step a little carefully when the people that they have to work with, in the city of Wrangell itself, the leaders of these natives, are saying things like that, especially when there is more than just a little justification for their remarks.

Certainly, if I were going into business in Ketchikan or in Wrangell and was faced with the legal difficulties and local resentment which I have described, I would try to find some alternative and try to get around these difficulties and resentments. I suppose that is why, in their letter to the Forest Service, the company indicated that these aboriginal titles ought to be cleared up by legislation or by other means.

I want to make it clear that I do not agree—and I have been quoted as agreeing—that the plan here proposed, or various phases of it, are the only alternatives possible to carry through the desirable end of bringing the pulp industry to Alaska. On page 32 of his testimony before this committee, after mentioning that he had conferred with the attorney for the native villages, Mr. Gardner said that “everyone agreed that that can be done only by authorizing the Forest Service to sell this timber.” He also says that “everybody agreed that this can be done only by legislation.” Now I don’t think Mr. Gardner purposely misrepresented my point of view. He may well have misunderstood. I may have said, or one of my two associates may have said, that legislation may be acceptable because everyone in the Government was insisting on it, or that we might let the Forest Service sell the trees because the Forest Service would accept no other alternative. But I do not agree that there are not other alternatives, either to Forest Service management or to legislation for settlement of this question. In fact, I discussed one such possible settlement with Mr. Gardner. It was suggested that we “swap” land for land, tract for tract, that the Government confirm the title of the Indians in, say, 10 percent of the land, which the Government has already admitted that the Indians own, and that the Indians relinquish all their rights to the balance, or 90 percent, of the national forest. Of course, those percentages are matters to be discussed. Maybe the Indians ought to get 20 percent and let the Government have 80 percent. But there is no use discussing what percentage will be swapped for what other percentage, because Mr. Vanech and Mr. Granger insist that they will not give the Indians anything. They wouldn’t even give us 0.56 percent of the land in the national forest in exchange for our relinquishing claim to 99.44 percent of it, in spite of the official findings that have been made.

We have plenty of possible alternatives here, if people were not so bull-headed. Mr. Gardner suggested one. On page 25 of his testimony he says:

“Practically the only objection to a reservation as a means of clarifying the land title situation, is that it would mean that the laws of the future State of Alaska would be inapplicable within that Territory, including the tax law, and that they would constitute Federal islands within the general territory of the State.

If that’s Mr. Gardner’s only objection to the reservation technique, he really hasn’t any objection at all. Everybody knows that the question whether State laws apply on Indian reservations is one that will be determined under the act by which the State is admitted to the Union. I have no reason to believe, if the Indians that I represent want to set up a reservation, to hold back some of the property which they have always owned, and transfer the balance to the United States Government, that they would necessarily object to the application of State laws to the property reserved. That is a question that could be worked out if the Government people were not obstinate.

As I said above, I do not agree with Mr. Gardner’s statement that it is necessary for this timber to be administered by the Forest Service. We might agree to that as part of a general settlement, but it isn’t necessary. I think that the pulp industry and the timber industry in the States is largely based on privately-owned timber. I don’t see why the pulp interests can’t make their deal directly with the Indians for the sale of their trees. If the Government wants to make rules and regulations I have no objection, but I see no reason why the Indians and the operators of the mills can’t deal hand to hand. Rather, I see only one reason. That is, that the Forest Service doesn’t want these people to do business with my clients.

Now it may be possibly contended that it is impossible to come to an agreement between the Government and the Indians because it is legally difficult to determine who owns this timber, that is, whether it is owned by individuals, by families, by clans, by towns, or by tribes. Perhaps it is contended that it is hard to tell what clan or what person owns which land.

Now this sort of argument may serve to confuse things, but I think the answer is comparatively simple. There should be no trouble about entering into a legally binding agreement between the Indians and the Forest Service or between the Indians and the pulp manufacturers. This is not the only instance in which the rights of the Tlingit and Haida Indians have been the subject of a release and satisfaction. In the Tlingit and Haida Claims Act, pursuant to which I represent all the Tlingit and Haida Indians in their claims for lands taken or property injured prior to 1935, it is provided that an organization be set up, that the organ-

ization elect a committee, that the committee select an attorney, that the attorney prosecute the suit, that judgment be entered in favor of this entity created by law, and presumably that the judgment be satisfied and that the claims of all the Tlingit and Haida Indians be thereby fully satisfied. This procedure will provide a complete release for the Government from damages for past deprivations of property of which it has been guilty. Presumably the Congress could set up a similar arrangement under which negotiations would be carried out and under which the Indians could be given a patent to such lands as might be determined to be in their ownership, and a final and binding release executed. I haven't studied the details of this question, but I am sure that if this Government can get a release for past deprivations of property, it can also get a valid and binding release for property to be transferred to them in the future regardless how many clans or tribes or towns or individuals might be involved.

The other element which makes the negotiation of this problem very feasible is the fact, admitted by Mr. Gardner at page 20 of his testimony, that the only contending parties are the Government on the one hand and the natives on the other hand. This would be considerably more difficult if it were negotiations between the Indians and private parties. The Government, after all, does not control any private parties who might be disputing with the Indians regarding the ownership of the land. But if the Government wants to come to a settlement with the Indians regarding its own land, it is easy to do it if the Government would only relax a little and abandon the attitude of Mr. Vanech and Mr. Granger.

Mr. Krug says in his letter with which this bill was transmitted and which is copied in full on page 2 of the transcript of the hearing, "That only the cloud on the Forest Service title which is cast by the native claims remains as a formidable obstacle." Now I don't like to see as peaceable and as fine a group of people as these clients of mine classified as "a formidable obstacle." I don't think they are formidable. I don't think they are obstacles at all, unless someone tries to mistreat them very badly. Mr. Krug might have taken a slightly different attitude if he had looked at this question from the point of view of the Indians. He says, "Only the cloud on the Forest Service title which is cast by the native claims remains as a formidable obstacle." Now why would it be improper for the Indians to say, "Only the cloud on the Indian title which is cast by the Forest Service claims remains as a formidable obstacle." The Indians were there before the Forest Service came in, and their grandfathers and their grandfathers' grandfathers were there before them. The Forest Service is casting a cloud here, not the Indians.

And I might say the same about the lawyer for the Indians. The record of the negotiations between me and the Government bureaus indicates that I was the open-minded one; I was the one who was willing to discuss settlement on any reasonable basis. It was the lawyers and the foresters of the Federal Government who were formidable obstacles to any settlement.

On the question whether or not it is possible to get these people together, it is not the Indians that disagree with each other. It is the bureaus of the Federal Government. The Indians get together on things pretty quickly. For instance, they were able within a week or so after they found out about this bill, to choose a lawyer for themselves. The whole lot of them chose a single lawyer. Furthermore, they all took a unified position on this bill, without being urged by anyone from outside, not even their lawyer. This is the sort of thing that the Indians can do when they are faced with something they know is bad for them. I think they could also get together pretty quickly on something that they knew was good for them. It is up to the Government to make them some kind of decent offer. I think when that happens the Indians will get together immediately and this thing can be settled. I have tried to show that the best thing for the pulp people is to avoid all these constitutional difficulties, drafting difficulties, and difficulties arising from local resentment, by getting together with us and working out some alternative which will provide my clients with something in hand for the support of their families. If a reasonable approach to the settlement of this question is made, it can be settled without legislation or with agreed legislation, and without depriving my clients of their basic rights, without consent.

THIS BILL IS DISADVANTAGEOUS TO ALASKANS

I would like to discuss this bill next from the point of view of the effect it will have upon the rights and interests of Alaskans and of the Alaskan communities.

In my opinion it will be very injurious and for that reason the bill should not be adopted.

I don't think anyone will contend that the Alaskans are not entitled to be heard on legislation that directly affects them. But if this bill is passed in the present session of Congress, it will be passed after giving Alaskans very inadequate opportunity to present their views. This seems almost to be the purpose of the sponsors of the bill. The bill was first sent up to the Hill while I was overseas. I had no opportunity to examine it until the day before it was set for hearing before this committee. When I arrived in Washington that day I telephoned to the chairman of the committee, to Mr. Bartlett, our Delegate from Alaska, and to Mr. Gardner. I had an agreement with the chairman and with Mr. Gardner that I would be given 2 weeks to study the question and present my testimony. I described this agreement during my brief testimony at the last session, and Mr. Gardner did not deny it. Yet, after having made this agreement, Mr. Gardner said, on page 44 of his testimony, that he was "hopeful" that the members of this committee would think it a desirable procedure "that we might accomplish the same purpose by proceeding, if this committee were so disposed, to dispose of it here, and rely upon the Senate to act later, and at that time to take into consideration any dissent which might develop from the native villages." In other words, in spite of our understanding that I would have 2 weeks, Gardner was asking this committee to act on the bill without hearing me at all. True, he said, he was "hopeful" that the natives thought it a desirable procedure, but he knew right well that the natives didn't think so. I am glad to know that the chairman of this committee did not think it desirable either.

I faced the same problem in connection with the Senate hearing. I anticipated that I would have some time between the House hearing and the Senate hearing. I expected that I would do a certain amount of work here in Washington in conducting negotiations and studying the bill. But between the time of the House hearing and the Senate hearing, I hoped I would be able to make a trip to Alaska to consult personally with my clients. After all, they had only signed my contracts a few days before and I needed to talk to them. But Mr. Gardner was not willing that I should have this time for discussions. On the very day of the House hearing, he went over to the Senate committee, to get a hearing set, without notice to me, at the same time as the adjourned hearing of this committee.

This distressed me considerably, but I decided that I would have to represent my clients in this case without seeing them first. But even this was not fast enough for Mr. Gardner. Although, on the record, he had indicated that the Senate hearings would be held on Monday, June 9, I got a notice from him personally at 5:30 p. m. Wednesday, June 5, that the hearings would be held on the following day! I had hardly even started to prepare; I had spent most of my time trying to negotiate some kind of a deal either with the Government or with the pulp industry. However, I managed to save my clients' rights by making eight or nine urgent telephone calls. I telephoned the clerks and officials of the Land Committee and the Indian Subcommittee, all the Senators involved. From them I found out that the reason for setting the Senate hearings so soon was purely to accommodate the Interior Department. I finally reached the chairman of the committee, Senator Watkins of Utah. The Senator told me that he would see that I was protected against any rush action. I have gone into considerable detail about this matter because I want this committee to understand that this whole procedure has such an atmosphere of rush about it that, as Governor Gruening himself said in his testimony, "there are very good grounds for being suspicious of it."

A clear impression of the unrepresentative character of these hearings, thus far, may be gleaned from the list of witnesses that have appeared. We have the gentlemen from the Department of Justice, the gentlemen from the Forest Service. The people from the Department of Justice, as I have stated before, have very bitter feelings on the whole subject of Indian claims; the Forest Service would be expected to oppose Indian rights to the extent that Indian rights are respected, the jurisdiction of the Forest Service is lessened. We have Mr. Gardner representing the Department of the Interior. Theoretically this Department is supposed to guard the interests of the Territory and of the Indians as well. From the mere fact that they are willing to introduce this legislation without consulting leaders in the Territory, it is perfectly apparent that they do not represent those interests. And lastly, we have Governor Gruening. The

extent to which he is representative of the people of Alaska is demonstrated also by the nature of his remarks. He said that no one has been more concerned with the welfare of the native people of Alaska than he. He referred to the splendid representatives, Indians, that are serving in the Senate and House of Representatives of Alaska. He said that he properly feels that as Governor of Alaska that he is here representing those Indians just as much as any other people. The very moment after he made these statements the chairman of the committee said that he had several telegrams from officials of the Alaska Native Brotherhood requesting that a hearing be granted to Indian interests. The Governor would have been much more representative if he had consulted with this organization before making his recommendation. The brotherhood represents practically all of the Indians of southeastern Alaska. They have so-called camps or chapters in practically all of the villages that I represent. Now, how close is Governor Gruening to this organization of Indians? I have a letter from William L. Paul, Jr., secretary of the Alaska Native Brotherhood, in which he has the following to say about Governor Gruening:

"As to Governor Gruening's claim that he is speaking for the Indians that simply isn't so. His contact with the Indians' attorneys is nonexistent, and deliberately so. He has never taken an active interest in any manner of settlement of Indian claims, directly or indirectly. He is not in touch with any substantial body of Indian leaders to know what the Indians are thinking. It is true that he manages to attend just about every ANB convention, but it is only to dash in and out for a speech. Similarly, Foster, and others are subordinates in the Interior Department and speak for the Government; not for the Indians."

Governor Gruening also makes a significant statement when he says that the existence of Indian claims has just recently "fallen across the picture in Alaska." Perhaps Governor Gruening has a very narrow picture of the scene in Alaska. He says that "people up to this time have not been conscious of the problem." Perhaps he himself has not been. However, I think I'll show very clearly that since 1867, on the record, the problem of Indian claims has been an important one for all the departments of the Government. I am sure that the Indian Committees of the Senate or the House are fully conscious of the problem and have been conscious of it for many years. But Governor Gruening has not been conscious of it because he doesn't know the Territory.

One thing that Governor Gruening might have done to make himself more representative on this question would have been to consult the wishes of the local members of the legislature, not only the Indian members but also the nonnative members. He might have done the same thing that the organization of which I am general counsel, the National Congress of American Indians, did. It sent letters to various candidates for the legislature toward the end of the last legislative session. Fourteen definite replies were received. Out of the 14 who took a definite stand, 13 agreed that "the Alaskan natives should be protected in the possession of the land which they have always used and treated as their own until such time as they see fit to dispose of these lands for a fair compensation." Of the 13 candidates who expressed themselves against taking away Indian rights except by consent, 8 were elected. There was only one who openly refused to support these propositions and he was decisively defeated, although he was an incumbent of an important office. There were three who replied in an ambiguous or noncommittal way and one out of these three was elected.

If anything is needed to be sure that the sentiment of the Alaska people is adverse to a proposition like this, it is the platform of the Republican Party. It contains the following statement:

"We acknowledge their original ownership of this Territory, and we believe that an early settlement of this question would be beneficial to the development of Alaska, and so we urge the immediate passage of the bill to empower the Interior Department to negotiate for the extinguishment of their title or as much thereof as may not be needed to maintain a decent standard of living."

The Republican Party, I understand, is the dominant party in the Territorial legislature. Their sponsorship of the Bartlett bill, providing for extinguishment of title with the consent of the Indians, indicates that they would oppose this bill providing for extinguishment of said title without consent.

This bill also discriminates against Alaskans because it would never even be proposed if it were applicable to people who live in the districts and States from which United States Senators and Representatives are elected. It was carefully

drafted to avoid revealing that it is a condemnation law; it seems also to have been carefully drafted so it would seem to apply only to some peculiar Alaskan problem, a problem not similar to any that we have in the States. This question seems to have arisen in the mind of Congressman Andresen when he was acting chairman. He said to Mr. Gardner:

"We have certain homestead laws in the continental United States where a person can file on certain lands and acquire title by performing certain functions of living on the land for certain time. Would those laws be applicable to the situation in Alaska?"

It was a natural question. I am sure Mr. Andresen was thinking of owners of possessory rights whom he personally knows. He may have been thinking of some farmer or rancher in his own State.

But Mr. Gardner, in drafting this legislation, tried to avoid shocking the sensibilities of Congressmen. His answer to Mr. Andresen was as follows:

"We have attempted, I believe successfully, to guard against any interference with rights based upon the ordinary land laws. You notice section 1 defines 'possessory rights' to include only aboriginal rights, if any should exist, the rights based on these three statutes which preserve the right to lands actually occupied either by natives or by white persons."

It appears to me that Mr. Gardner is asking this committee to adopt a policy toward Alaskan owners of possessory rights which any Member of Congress would oppose if it were applied to possessory rights in his own State.

Anything that is adopted here to destroy possessory rights in Alaska is necessarily a precedent for a similar enactment against possessory rights throughout the country. In fact, a precedent would be created for breaking down respect for all kinds of rights in real property.

Suppose a bureau comes to Congress next year with a bill such as was introduced last session, namely H. R. 6221, extending the control of the Forest Service over private forests throughout the country, and providing that the Government may regulate the number of trees that a man may or must cut on his own wood lot. It is not going to be possible for members of this committee to say, if this precedent is invoked, that it was applicable only to Alaska or only to Indians. If this bill is enacted now, there will be no excuse for voting against similar bills, when they are proposed, to encroach upon similar rights of communities from which Congressmen are elected.

The opposition of the public to encroachment on vested rights whether possessory or of record, in the United States itself is shown by the story of Jackson Hole, or the so-called Jackson Hole National Monument. Jackson Hole was under the administration of the Forest Service which had a policy of permitting its use by ranchers for grazing purposes. By administrative action it was sought to change this area into a national monument and to put it under the jurisdiction of the Park Service. The Park Service had a policy of not permitting grazing.

The ranchers who protested had no vested right whatsoever, whether possessory or of record in the public domain. All they had was a contract or permit, terminable after a specified period. Yet everybody felt that, since they had been conducting their business on that land for years they were more or less entitled, morally, to continue doing so. The outcry against the Park Service was so great that the Park Service has never been able to prevent grazing in the monument. Congress felt so strongly about it that, every year, an amendment is added to the Interior Department appropriation bill forbidding the use of any money for the maintenance of the monument.

This is a story with which the members of this committee are quite familiar and there is no use of detailing it here. It indicates a strong feeling on the part of the American people against interference with possessory rights, moral or legal. I am sure no Congressman would vote for interference with possession by anyone in his district of property which has been possessed by him and his fathers and his grandfathers before him since 1867, especially if the only adverse interests are those of the Government itself. A similar example of the same popular revulsion against interference with small property rights is the episode of the Parker River Wildlife Reservation, which I will not bother to discuss in detail.

Let Congress beware of passing legislation at the request of the Forest Service authorizing them to encroach upon the lands of others. There are national forests in every State of the Union. Over 37 States have more than a

half million acres. This type of legislation is apt to come back to any Senator's or Representative's own State to roost.

THE BILL VIOLATES PREVIOUS COMMITMENTS TO ALASKA

I will now try to show that this bill would be a violation of previous commitments made to people of Alaska by the Congress and the Government of the United States. The witnesses who testified in favor of this bill tried to indicate that Congress has not previously committed itself. Mr. Krug, in his letter to Chairman Hope, said that the actual extent of native possessory rights has not yet been determined by the court, nor has the Congress enacted a very clear definition of these rights. Mr. Gardner says on page 6 of his testimony: "For a good many generations, notwithstanding the uncertainty of the native claims of rights to the Alaska Territory, they have I believe in general been largely disregarded, except only for the lands which were actually improved with buildings and structures, or cultivated by the natives." Mr. Granger in his testimony on page 51 says that "except for areas which have already been passed upon, or set up in the form of Indian reservations, the Department has had jurisdiction without any disturbance since the creation of the National Forest," and "while it is recognized that these more or less undefined aboriginal claims have been in existence, there has been no assertion of those in a formal way to interfere with the administration of the National Forest."

Governor Gruening said that:

"This is all a relatively new question as far as Alaska is concerned. It was brought up within the last 2 or 3 years and it has not been hanging over the forest areas as a threat before that time. * * * There are very few people in Alaska who are aware of this, * * * and it is all a new development in the last 2 or 3 years."

Mr. Gardner refers back to the idea that the principles concerning possessory rights which have been so firmly established in the courts of the United States have no applicability to Alaska at all. Everybody seems to think that this is a comparatively new idea, that there are no previous commitments. So it is necessary to examine the record in some detail.

The treaty of 1867 with Russia, by which Alaska was acquired, provided in part that:

"The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within 3 years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes shall be admitted to the enjoyment of all the rights, advantages, and immunities that citizens of the United States have, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country."

Thus, the civilized Indians were given a choice between becoming Americans or becoming Russians. Because of the guaranty that their rights would be protected they determined to remain in the United States. When the aboriginal right to the possession of lands of the Indians of the United States as such are protected by the firm decisions of the highest courts, how can Mr. Gardner now, in spite of the provisions of the Russian treaty, ask the Congress of the United States to apply a different rule to Indian property of Alaska?

This was a part of the consideration for the Indians of Alaska remaining in the Territory. There is every reason to believe that if they had gone to Russia they would have been treated in accordance with the humane policy which the Czar was following. This policy is exemplified in the charter granted to the Russian-American Co. which provided in part as follows:

"Should the colonial administration consider it advantageous to establish factories, redoubts, or so-called one-man posts in various parts of the American continent for the safeguarding of its commercial interests, it shall obtain the consent of the natives to such action, using every endeavor to preserve pacific relations with them and to avoid arousing the suspicion of any desire to encroach on their liberty."

I hope that the Congress of the United States will be no less humane in their relations to the Indians of Alaska than was the Czar of Russia.

The obligation of the United States to respect the property rights of my clients is further stated in the Organic Act of Alaska adopted in 1884 (23 Stat. 24). Section 8 of that law created the land district of Alaska and specifically provided that:

"Indians or other persons in said district shall not be disturbed in the possession of any land actually in their use or occupation, or now claimed by them."

It further provided, "the terms under which such persons may acquire title to such lands, is reserved for future legislation by Congress." This provision was enacted as a result of an amendment submitted by Senator Plumb. The entire discussion surrounding the amendment evinces the most scrupulous care not to destroy any aboriginal rights whatever, but to leave the determination of such rights to future administrative inquiry. As Senator Plumb said:

"We are passing upon the rights and duties of a people about whom we know practically nothing, and people who are entirely helpless. * * * Alaska is a long way off and a series of outrages and wrongs might be perpetuated there which could not be remedied or healed and which would ripen into something which could not be reached by legislation or remedied, practically before anybody knew anything about it." (15 Congressional Record 531.)

Again, in 1891, a bill was adopted which provided for repeal of the timber culture laws and which contained a proviso that nothing therein should be so construed as to warrant the sale of any land "to which the natives of Alaska have prior rights by virtue of actual occupation."

Another organic act passed in 1900 provided that Indians "shall not be disturbed in the possession of any land actually in their use or occupation."

Down through the years the Interior Department has likewise recognized the rights of these Indians as is demonstrated by reference footnote 8 of pages 13 and 14 of Secretary Ickes' Hyaburg decision (copy of which was made a part of the record in this hearing). The Indian Reorganization Act of 1936 again recognized Indian possessory rights and provided a reservation procedure to reduce them to record. The House committee report on the act of 1936 said, with reference to section 2 of that act, "that this provision in reality carries out the promises of this Government contained in the act approved on May 17, 1884," referring to the first act under which possessory titles were recognized and confirmation was promised by Congress. The proclamation establishing the Tongass National Forest in 1907 also clearly excepted possessory rights. Regardless of what Mr. Granger may say, the proclamation has been binding upon the Forest Service ever since. In fact in 1936, the representative of the Forest Service in Alaska testified to that effect. The citations I have mentioned, I believe, are sufficient to convince anybody that Congress and the Department of the Interior have over and over again committed the Government to the recognition of the validity of the titles of my clients.

Thus it appears that the passage of this legislation would affect Alaskans personally, in that it would deprive them of their rights to be heard on legislation affecting them, it would discriminate against them as compared with other citizens of the United States, and it would violate previous commitments made to them. That this interference with their rights would have a serious effect on the commercial life of the Territory is apparent from the fact, not too clearly stated at these hearings, that the principal commercial center of the Territory is located within the area, or at least within the exterior boundaries of the Tongass National Forest. This part of the country covers only 4 percent of the area of the Territory but it has at least 25 percent to 33½ percent of the population. The results of this legislation would be to give the pulp industry a feeling of security of title, but to destroy the confidence of all property owners to titles which have previously been assured to them by action of this Congress. In that connection it should be borne in mind, as has been previously pointed out, that it is not only Indian titles that are affected but also the titles of white people. In fact, the first important case on the subject was that of a man who had established a business and had spent \$40,000 in a title which would be destroyed by this bill. If private titles are so ephemeral, certainly no industrialization can take place in Alaska excepting Government-owned enterprise.

THE USE OF THE WOOD FOR PULP IS NOT SHOWN TO BE ITS BEST USE

From the point of view of Alaskans, another reason for looking askance at this legislation is that it cannot be taken for granted that the use of this wood

for pulp is necessarily the best use to which all of it can be devoted. It seems that the principal difficulty in Alaska is that it has been exporting raw materials and importing finished products. That is the reason the price of everything in Alaska is sky high, considerably higher than it is in any other part of the United States. It seems to me that the establishment of a tremendous pulp industry would only perpetuate this evil. This is not to say that the pulp industry will not bring benefits to the Territory. It is only to say that the theory of exporting raw materials or roughly finished products and importing finished products can be carried much too far, and that may be a result of the recommendations of the Interior Department and the Forest Service. The prospectus issued by the Forestry Department in 1944, which contains the original proposal for the pulp and paper development classifies the various types of lumber in the forest and the uses for which they are valuable. It states, for instance, that the Sitka spruce manufactures into all the usual forms of lumber and into airplane stock; that the Alaska cedar has a fine texture, is easy to work, has a bright yellow color, takes a beautiful satin finish and is extremely durable, that it is used locally for boatbuilding and telephone poles, that battery separators have been made of it in British Columbia. Such information certainly makes a person wonder whether all of this wood ought to be used for the cheapest possible purpose, namely the making of newspaper pulp. Certainly the records show that the Indians made a wide variety of uses of their timber. According to the Haas-Goldschmidt report they built traps for fishing streams, erected frames for drying fish, used the bark for making ropes and wood for blankets and mats, canoes, dugouts, and paddles, houses, totem poles, and fishtraps, drums, wooden dishes, baskets, fish lines, and brooms. According to this report the people were very highly skilled in woodworking, and in modern days the sons and daughters of the people who are mentioned in this report, have likewise shown their skill along these lines. For instance, the community at Metlakatla has its own sawmill and I am told that during the war when the Army needed some lumber for its projects, it was the sawmill at Metlakatla that was the only source of supply. Mr. Gardner recognizes the possibility that there are better uses for this timber than the making of pulp. On page 25 he says:

"If we were sure, or if we had any way of knowing that this territory was native owned, we in the Interior Department would be doing everything we could to attempt to duplicate an operation similar to that in the Menominee Reservation, but unfortunately we have no more idea than anyone else does as to who does own the land in question."

Congress has provided one way of settling the question of native titles. Another way for it to be settled, would be for the Forest Service not to be so acquisitive, and merely to recognize the Indian title to sufficient area to permit the establishment of such admirable enterprises as the Menominee mill. I understand that at Menominee they get eight or nine dollars for a thousand board feet for their timber as compared to the one and a half or two dollars that the Indians will get for theirs under the Forest Service's plan. At the original hearings on this bill, Congressman Clevenger said some very kind things about the Menominee Reservation project, and inquired about the possibility of sawing of lumber in the national forest. No adequate answer was given to his inquiry. Mr. Goff also called attention to the problem when he inquired, at page 57, of Mr. Heintzleman whether the Alaska types of wood were ordinarily used for lumber and whether or not it would not be preferable to use smaller growth for pulp. The views of people of Alaska on this question were reported to me in a letter of May 19, written from the village of Petersburg. This is what was said:

"They say if it is best for the Territory and the United States to sell this timber for pulp they will not oppose this on any sort of fair basis though they think it is a wasteful use."

It will ill-become me to controvert the word of the Forest Service on the question whether they had made adequate provision for more effective use of the lumber of Alaska. The trouble with this record is that it does not contain any testimony whatsoever on the subject. The assumption throughout the hearing has been that the pulp and paper development is the most desirable thing. In my opinion this Congress ought to get further information on this question before any action is taken on the bill.

THE PROPOSED PULP INDUSTRY MAY BE INJURIOUS TO THE FOREST

I am not entirely clear in my mind either as to the effect this development will have upon the forest itself. Mr. Gardner said that the Secretary will sell a block of timber for one 5-year period, then another block, then another block, etc. (See p. 23 of the transcript.) Mr. Clevenger raised the question whether he might not be opening up Alaska to the type of exploitation that he has seen in other timber areas. Mr. Gardner replied by saying that he believed that the Forest Service would be able to assure the Congressman that this is an orderly development. When Mr. Granger testified for the Forest Service, the only assurances he supplied were in the following words:

"All of the timber which is cut to supply any pulp development in Alaska will be cut under the supervision of the Forest Service, which will determine where the timber is to be cut and the cutting conditions under which it will be operated. So that I believe that there is no reason to have any fear, Mr. Hill, that there will be the kind of cutting that you have deplored, very properly, that has come under your observation, and that of some of the other gentlemen here."

Mr. Granger feels that the mere fact of administration by the Forest Service is sufficient to guarantee proper conservation. Later, however, Mr. Heintzleman (pp. 57 to 59 of the transcript) in reply to a question of Mr. Johnson, made a statement which raises some doubt in my mind. In the first place, he said that they intend to depend almost entirely on natural reproduction, and that they would practically strip the forest. Now all of this talk about conservation is pretty technical for me. I don't understand most of it. But I do know that the hills in Alaska are about the steepest I have ever seen and I am quite sure that if they are stripped the land will wash away and that the forest, therefore, will not replace itself. This seems to be confirmed by the views of some of my clients. The same letter to which I made previous reference, from Mrs. Bronson, written from Petersburg on May 19, records the complaints of the natives there as follows:

"They will have nothing to say about the sale price; they will have nothing to say about administrative costs which will be run up against them; and which they will have to pay, and they will have nothing to say on whether or not the cutting is being done on a sustained-yield basis. They tell me in all the towns that when logging is being carried on now, the Forestry Service does not enforce the sustained-yield feature but lets the loggers denude the whole hill-sides. They say any bill permitting timber sale to the pulp industry should specifically require that the timber be cut on a sustained-yield basis or reseeded or replanted as it is cut."

While I certainly have said nothing that could be construed as positive complaints concerning the question of conservation of the Tongass National Forest under the recommended program, I think that the things I have said ought to be sufficient to cause this committee to make a further study of the question and to insist upon more detailed information from experts that are available to it.

THE PULP INDUSTRY MAY INJURE THE FISHING INDUSTRY

Another question that naturally arises in the mind of anyone solicitous for the welfare of Alaska is whether this development will have any adverse effect upon the fishing industry in the Territory. Much has been said about the additional employment that will be brought to the Territory by this industry. On page 4 of his testimony Mr. Gardner said that it would offer, on a sizable scale, year-around employment to the residents of that Territory. Dr. Gruening also urged that the natives accept this arrangement because of the additional employment that it would bring. But this, too, may have a darker side. Nobody has bothered to point out thus far, excepting my correspondent in Alaska, that the 10-month logging season will overlap the 4- or 5-month fishing season so that the same men cannot be employed in both industries. This means that there will be competition from the logging industry for the labor supply of the fishing industry.

The other problem insofar as the proposed project affects the fishing industry is that of the dumping of debris and of acid into the streams and of the dragging of logs through the streams. At page 60 Mr. Granger said that the timber contract provides for protecting the streams in which the salmon spawn. Delegate

Bartlett was also deeply interested in this question. My reports from Alaska are not nearly so optimistic on this question as Mr. Granger was. In her letter of May 19 from Petersburg, Mrs. Bronson reports as follows:

"They say, Petersburg in particular last night, but all of the towns also, that when the pulp mills come in, wherever they are they will destroy the fish, shrimp, and other seafood supply because of the poison that is generated; that the Indians will for this reason lose immediate income in great amounts and may even be forced to move out of the area of the mill for great distances. * * * They would be better off, they say, to let the timber stand, for then they would not be done out of food. For instance, they say that one mill is going into Thomas Bay, an area claimed by the Wrangell group. This bay is the place that supplies the best shrimp for this whole area and many of the towns use it as well as the white canners, etc. They say that the poison generated or necessary to the making of pulp will destroy all of that source of food for the whole of Thomas Bay."

I also have a communication from Mr. William L. Paul, Jr., secretary of the Alaska Native Brotherhood, on the same question, dated June 3. He says the following:

"Timber operations are very dangerous to fishing streams. Timber roads are most convenient in or near spawning streams and the least jarring kills the eggs. The Fish and Wildlife Service has never protected fishing streams from the depredations of the timbermen, for instance, at Fish Bay on Baranof Island. At Kadake the logging was done in the bed over the vehement protests of Kake Indians, and Hetta Lake is now being logged over the protests of the Hyda-burg Indians. Minor officials of the Fish and Wildlife Service make reports of these things but nothing is done higher up. Most particularly, the Forest Service is not to be trusted where fish is concerned."

EXTENSION OF THE NATIONAL FOREST DETERS INDUSTRIALIZATION

Last but not least of the questions relating to the possible effect of this legislation on Alaska is the question of its possible adverse effect upon the people of the Territory. I might point out that this area includes that part of Alaska which will be industrialized if any part ever is. All of the towns in the area are completely surrounded by the forest. As stated by Mr. Heintzleman in his testimony on page 58, the purpose of the creation of the national forest is to hold it permanently for the production of timber crops. The forest land comes right up to the boundaries of these little towns. Care should be taken to leave room for expansion of industry in Alaska and not condemn its industrial sections to being bottled in on all sides by the Forest Service.

As to all of these matters, there are many technical, economic questions involved that are beyond my knowledge. I have to leave the interests of my clients in these regards to the superior fact-finding facilities of this committee. I hope that all of the facts will be discovered before the final decision is made upon this proposal.

THE BILL IS INJURIOUS TO THE RIGHTS AND INTERESTS OF INDIANS

In general, I think I agree with the statement of Ben Dwight, formerly chief of the Choctaw Nation of Oklahoma, a prominent lawyer of Oklahoma City, a close associate of former Governor Kerr, and presently the national attorney of the Choctaw Nation. He says, in part, that special interests are using the Indians as a bogeyman to stampede Congress into the validation of illegal contracts. He says that they have dug up the old argument the grafters in old Oklahoma used years ago, that Indians are standing in the way of progress, and that the only way to develop Alaska is to extinguish the Indian titles. He says that taking away the titles to the land is the starting point of all bureaucratic schemes for ruining the Indian.

"First," he says, "they want to reduce him to landlessness and poverty. Then they want to give his money to a Federal bureaucracy to hold or spend for him."

Mr. Dwight says that the people of the Choctaw Nation will stand by the people of the Alaska Indian communities when anybody tries to take their land or without consulting them, and that if Congress, in violation of the Constitution,

takes their property without compensation, they will defend the people of Alaska before the court and before the tribunal of public opinion.

The first specific injury that the adoption of this bill would cause to my clients, the Indians as such, is again that legislation would be adopted very directly concerning them, in fact depriving them of their patrimony, without their even being consulted. From the Secretary's letter transmitting this legislation it is obvious that he expected the Indians to agree without question. I don't know where Mr. Krug could have gotten this notion. Superintendent Foster, of the Alaska Native Service, was in town at the time. Since then he has returned to Alaska. The time given to us is obviously inadequate for proper consideration of this question. Immediately after the first hearing of the testimony I transmitted copies of the transcript to each of my clients in the Territory. I did not attempt to advise my clients what attitude to take on this issue, but merely described the bill and permitted them to judge it on the basis of the testimony, which up to that time had all been favorable to the bill. I am not sure that this letter was ever delivered to a number of the towns. I have a cablegram, or a copy of a cablegram, from Mrs. Mildred Sparks, city clerk of the village of Haines, Alaska, to my associate in Juneau, stating that, as of 10:45 a. m. on June 6, my letter of the 28th of May had not yet arrived and it was impossible to make any decision on the bill as introduced. However, the general subject of a timber bill containing authority to the Forest Service to sell the timber, the proceeds to be held in escrow, was fully discussed by Mrs. Ruth Bronson, who has traveled to all of the various villages during the past month. She has not had with her upon all of her visits a copy of this bill since it was not prepared until after her departure for Alaska. The possibility of the escrow provision had, however, been suggested to her by Mr. Gardner before her departure.

When Mrs. Bronson went to visit the towns, she was accompanied, at the request of Superintendent Foster, by a member of Mr. Foster's staff, Mr. Roy Peratrovich. I have received from Mrs. Bronson in Alaska a copy of a radiogram sent by Superintendent Foster to the Commissioner of Indian Affairs stating that on the visit of Mrs. Bronson and Mr. Peratrovich to the various towns the timber bill was presented to the respective groups without any undue pressure for or against the bill on the part of Mrs. Bronson or Mr. Peratrovich. The results of this private investigation of mine into the views of the Indians of Alaska concerning this attempt to confiscate their property I have in my hands—a sheaf of telegrams which I have received from the various towns, expressing their views in very positive terms. In one of these cables it is stated that all native towns in southeast Alaska have now held meetings on timber legislation, that the main leaders and representative groups were present in each town, and that all towns have voted unanimous opposition to House Joint Resolution 205 in its present form. If it is agreeable to the committee, I would like to ask that all of these radiograms be incorporated as a part of the record at this point.

In considering this bill the committee should recall that the Indians of southeast Alaska have only hired a lawyer to discuss these technical questions within the past few weeks. The Government of the United States which is on the other side of this controversy has had the benefit of the best legal and technical advice and has been considering this question for 25 years. Two weeks for the Indians; 25 years for the Government. This is not exactly fair. The situation that we find ourselves in as representatives of the Indians is well described in Mr. Paul's recent letter to me when he said:

"As to Foster or Governor Gruening or the Office of Indian Affairs, school teachers, or even you or me going out into the field to get the rank and file vote of what the Indians want or feel, it is simply impossible to do in the summer. You are going to have to rely on the 20 or so leaders, and Foster will have to do so equally. Mrs. Bronson got a strong reaction from Kake against all the hurry. We even get the idea that this thing is being pushed simply because the Indians are out at their seasonal livelihood and unavailable."

I might also mention that the consideration of this bill by the Indians has been greatly hampered by the fact that the Department of the Interior gave me personal assurances that a bill incorporating a payment of 10 percent down to the Indians would be introduced. On the basis of this, I wrote to all of my people in Alaska, telling them about the proposal. Before Mrs. Bronson had a chance to go to Alaska, the whole thing had been withdrawn, and this new scheme which provides for no payment at all to the Indians was substituted. I don't know what

may be substituted for the present draft, but I think that whatever is proposed should not be passed without giving the Indians a much better opportunity to discuss it than has been afforded to them up to the present time.

All of this urgency, or the need for urgency, is mostly imaginary. The Secretary said that we are on the verge of writing a contract, Gardner said that if the timber contracts are not written this summer, we will run into the danger of having failed the third time in developing southeastern Alaska. Mr. Granger said that time is very important and that these concerns have evidenced their intentions of going ahead. Governor Gruening said, "Time is of the essence." All of these statements were exceedingly emphatic. The testimony does not indicate, however, why the industries cannot go ahead on the basis of award of the Government timber, and an agreement by the Government to acquire the Indian timber and later include it in the contract. My understanding of the situation is, they will not start actual cutting for 3 years. It seems to me that there is an awful lot of work to be done during the coming 3 years. The Forest Service can give these corporations adequate assurances so that in the meantime they can make their preliminary plans and the final fruition of the enterprise will not be delayed in any way by delay in the enactment of legislation. This, too, is of course based upon the premise that immediate action is really necessary, but the necessity for the rush while it has been urged has not ever been fully explained. Perhaps a very good reason for it appears in a statement of Governor Gruening at page 104 of the transcript when he says: "If for one reason or another this bill were not to be acted upon by this Congress and were to go over to the next Congress, we do not know what is going to happen. It is going to be a Presidential year, and things often do not get passed in a Presidential year." In other words, the desire for rush in connection with this legislation may be based upon a desire to avoid its being examined, a desire commonly evinced by those administrations which recommend to Congress matters having the potentialities for scandal that this legislation has.

I also want to reiterate what I said at the very beginning. That this bill would perpetrate an injury to the interests and rights of the Indians that I represent, because it is in direct contravention of commitments previously made to them. Most of these commitments have been previously recited. I only want to repeat here one sentence, the latest assurance that my clients have received from the Interior Department, the Secretary of which Department is their guardian and the representative of the President and of the Government of the United States in dealings with them. This decision of the Secretary said in part that his Department "will recognize that the natives involved in these proceedings are entitled to the exclusive possession of approximately 190 acres per capita of land on which they lived and which has remained in their possession since before our sovereignty attached. Such action has been authorized by a liberal Congress, solicitous of our national honor and of our obligations to a brave and industrious people who are making a resolute endeavor to meet the problems of the white man's civilization."

I will mention here again the injury done to Alaska Indians by the proposal that there would be applied to them a different rule than that which is applicable in the United States. This, as I have stated, would in my opinion be contrary to the international obligation into which we entered at the time of the cession of the territory by Russia to the United States. I don't intend to go into the various cases which uphold the rights of Indians to their aboriginal possessions. Mr. Gardner has done this to some extent, but there is no need to argue the question because nobody here has indicated that the rule in the continental United States is not favorable to the enforcement of Indian rights. Throughout his testimony Mr. Gardner has hinted at a possibility that a different rule would apply to Alaska, but he has given us no grounds for believing that such a possibility might exist. The rule that is applicable to Alaska Indians is exactly the same as was laid down by the Supreme Court in the Hualapai and confirmed in the Alcea case that the Indians are entitled to the lands possessed by them and their fathers over the years and that the United States cannot interfere with this property of the Indians unless they obtain just compensation. In fact, a taking of this property from the Indians even with just compensation would violate another very important rule, which has guided us down through the centuries of our relationships with the Indians—this is the rule that Indian title should not be taken without Indian consent. In the Tillamook case, the Supreme Court said that "in our opinion, taking original title without compensation and

without consent does not satisfy the high standards for fair dealings required of the United States in controlling Indian affairs."

In a recent article in Collier's magazine of January 19, 1946, written by Felix S. Cohen, the Associate Solicitor of the very Department that now recommends this legislation, the Interior Department, this whole subject is thoroughly discussed. The article contains a map of the entire area of our country showing the manner in which it was acquired from the different nations and different Indian groups. Mr. Cohen says that the general impression is that the land so acquired was taken from the original Indian owners of the continent by force and that we proceeded to lock them up on reservations. In recent years, he says Japs, Nazis, and Fascist propagandists lost no time in pointing out that what their countries were doing in Asia, Africa, and Europe was no different from what the United States did years ago in taking the continent from the Indians under the name of a superior race. The historic fact, Mr. Cohen says, is that practically all of the real estate acquired by the United States was purchased from its original Indian owners.

"So we can say that from the Atlantic to the Pacific our national public domain consists of land that we have bought from the Indians. Here and there we may have missed a tract or paid the wrong Indians for land they did not own and neglected the rightful owners, but no one who looks at the record can say we have willfully disregarded Indian property rights in any part of our public domain."

I sincerely hope and trust that this bill will not be the first example of willfully ignoring the Indian property rights in a part of our public domain. This principle requiring prior dealing with the Indians before the taking of their property is based upon a provision in the great Northwest Ordinance of 1787, which said:

"The utmost good faith shall always be observed toward the Indians; their land and property shall never be taken from them without their consent and in their property right and liberty they shall never be invaded or disturbed unless in just and lawful war authorized by Congress; but laws founded in justice and humanity shall from time to time be made for preventing wrongs being done to them and for preserving peace and friendship with them."

In the course of my discussions in the various departments I learned a considerable amount about the distinction between taking of land by the power of eminent domain and the taking of land as they say "by the sword." They say it may be done in either of two ways. I don't think that this Congress should use either method to take away from the Indians what little is left to them after their rather harsh contact with our white civilization. I think that we should sit down together with the Indians and work out some arrangement that I am sure they will be willing to agree to that will permit the carrying forward of this great development in Alaska without in any way trampling their rights.

THE INDIANS HAVE LITTLE TO GAIN FROM THIS BILL

Despite the fact that Governor Gruening believes that this bill will bring a new day in Indian economy, the Indians are not so optimistic, and they have reason for their pessimism. Mrs. Bronson, in her letter of May 19, from Petersburg, heretofore referred to, states:

"The possibility of getting work through the industry is looked at cynically. They say the canners do not employ them if they can do otherwise, and that the pulp industry would be the same; that once the industry gets a foothold, if it no longer has to bargain with the Indians, there would be little or no chance for them to work."

Andrew Hope, a member of the Alaska Legislature and a leader among the Indian people, writes that the new industry will probably mean work for a lot of people—from outside; that Indians will be hired after the labor market has been drained. He comments that it was so even during the war. William Paul, Jr., in a letter quoted above, notes that since the timber season would coincide with the fishing season, it could not give year-round employment to the seasonal fishermen without taking them wholly away from their fishing—and the fishing is too lucrative an occupation to give up.

In return for this employment, which the Indians do not expect to enjoy, they are asked to accept the deprivation of their right to dispose of their own property as they see fit, the possibility that their fishing streams will be destroyed, the possibility that their mountain sides will become eroded and ugly.

THE BILL SEEKS TO SHIFT ADMINISTRATIVE RESPONSIBILITY TO CONGRESS

Had the Departments of the Interior and Agriculture been tending to their knitting, no such legislation as this would have been sponsored by them. However, Interior, despite instructions from Congress since 1884 to define the extent of Indian ownership of land in Alaska, and specific instructions from Congress in 1936 as to how the Department should handle the problem (a method that provided for seeking the consent of the Indians), has taken no action which it is willing to back up. Now that a practical problem has arisen by reason of the Department's laxity, it wishes to absolve itself of all responsibility and runs to Congress to pull its chestnuts out of the fire. Similarly, the Forest Service has these many years advertised and sold timber in the Tongass National Forest, pocketing the proceeds, without reference to who owned the timber. This practice was protested by individual groups of owners of the timber, but since no voice that was raised could be heard outside its locale, the protests were brushed aside. Now the voices are raised together, and the Forest Service, in fear of the loud noise, comes to Congress asking it to validate its invalid contracts and give its sales of Indian timber an aura of legality.

The Forest Service gives as excuse the fact that it has never recognized Indian title. (In 1936, as I have stated, a representative of that Service solemnly testified that he would not grant permits for fox raising on Indian lands.) The excuse of Interior is even harder to take: Mr. Gardner says (at p. 13 of the transcript) that the hearings which were held by the Department in 1944 were merely advisory opinions, not binding upon the natives, and were dropped because they were not solving the problem. Mr. Gardner's only explanation for refusing to take that formal step provided in the act of 1936 which would have granted record title to the natives and solved the terrifically complicated problem that he described throughout his testimony, was that reservations, which the 1936 act provides for, are not wanted by the white people or the Indians of Alaska, and that they would be injurious to the State of Alaska when it shall be admitted. I have already pointed out that the reservation can have the effect of determining title to land only without depriving the State in which it is contained of any sovereign power over that land. Such a reservation, without the privileges and Indian Office control, enjoyed and suffered by the Indians on old-fashioned reservations, would be acceptable to whites and Indians alike. Many of the town groups in Alaska realize this and have been clamoring for reservations since the Department of the Interior was given the authority to create them. Among these are the people of Hyaburg, Kake, Klawock, Kasaan, and Angoon.

These people have been assured by the Department of the Interior that their rights will be protected. The Department does not want to suffer their enmity when it is discovered that their rights have been betrayed. That is why Mr. Gardner is asking Congress to take the blame.

I have discussed a number of reasons why this bill should not be passed. I hope that you will scrutinize it and any substitute that may be offered in the light of the problems I have suggested. I thank you, on behalf of my clients for your consideration of their problems. Protection of their rights is in your hands.

STATEMENT OF N. B. JOHNSON TO THE HOUSE AGRICULTURE COMMITTEE ON HOUSE JOINT RESOLUTION 205

Mr. Chairman, my name is N. B. Johnson. I am a native of Oklahoma, a judge of the twelfth judicial district, and a member of the Cherokee Tribe of Indians. I am president of the National Congress of American Indians of the United States and Alaska, a nonincorporated association made up entirely of American Indians. It is nonpartisan and nonsectarian. It is independent of any agency of government, Federal, State, and is equally independent of any private organization devoted to Indian affairs, and free from any "isms" of any kind or nature whatsoever.

It was created at Denver, Colo., on November 15, 1944, by delegates from 27 States representing more than 50 tribes, who came together at their own expense, without financial sponsorship or financial backing of any kind. They were all

Indians with a personal concern for the welfare of themselves, their children, and their tribe.

Its membership consists of tribes, groups, and individuals, and the total individual membership is more than 75,000.

For the further information of this committee, I should like to introduce as exhibit A, a leaflet setting forth the aims and the purposes of the organization, and its constitution and bylaws.

The NCAI is especially interested in the problems of the Indians of Alaska, because those Indians are facing the same crisis that the Indians of Oklahoma faced before statehood, and we want, if possible, to steer them away from the pitfalls into which some of our tribes in other States fell in the early history of our country.

If House Joint Resolution 205 becomes law, the Indians of southeastern Alaska will suffer a severe blow, economically and spiritually under what appears to me to be an unconstitutional exercise of congressional power.

These Indians have been occupying and using the forest area of southeastern Alaska or parts of it from time immemorial. Since 1884, they have been assured by Congress and by the Department of the Interior, in various statutes and departmental opinions, that they will not be disturbed in the enjoyment of their lands. In 1900, mission titles were confirmed, and in 1936, Congress provided a method for confirming Indian title by vesting in the Secretary of the Interior the right to reserve to Alaskan Indians lands which they were occupying. The Secretary, who has never taken the final steps which lie within his power alone to define the extent of Indian ownership in Alaska, now comes to Congress and requests that the fruits of the land be taken from the Indian owners because the exact extent of that ownership has not been defined.

A great hue and cry has been raised that the Indians, by reason of the fact that they make claims to certain land are holding up the introduction of the pulp and paper industry in Alaska. It might as well be said that the Government agencies which are claiming the same land are the obstructionists. The Indians have given up lands and fishing rights to the canning interests, voluntarily and involuntarily, for the progress of Alaska. If they were not handicapped by the inaction of Federal agencies, they would long before this have dedicated the resources of their land to the progress of the Territory and the economic betterment of their people, as have the Indians of the States whose lands are blessed with timber, minerals, oil, and other resources. That also is a way to industrialize Alaska—let the profits of land bring a higher standard of living to the owners of it—not fill the coffers of private corporations that will leave a few dollars in salaries in the Territory and take the resources of the Territory and the profits therefrom back to the States.

In this country, owners of private property are protected by the Constitution from having that property taken from them by the Government and awarded to other private interests. Indians are entitled to this protection. The last time a Secretary of the Interior forgot his duty in this regard, when Secretary Fall attempted to sell Indian minerals, the Attorney General (34 Op. Atty. Gen. 171 and 181) reminded the Secretary and the President of the United States that the Indians have complete equitable property rights which, as he said, are sacred. Those "sacred" rights cannot be taken, even for public use without just compensation.

Upon the spirit of these people, the bill can have deadly results. To be forced to sit by helplessly while a governmental official advertises and sells the principle crop of the land that he admits you own, is enough to break the morale of any community. To be treated as children who do not know what is best for them would kill the initiative of any group of men. Thus has the dignity of the Indians in the United States been trampled upon. These people, the owners of the land in southeastern Alaska, are competent to handle their own affairs. If allowed to carry on their own business affairs, they will become prosperous communities, as the people of Metlakatla, a group of Indians of southeastern Alaska, whose land boundaries have been defined, have proved.

Enactment into law of House Joint Resolution 205 would be repeating one of the worst mistakes in the history of opening up the West in this country. The immediate introduction of the pulp and paper industry into Alaska is not worth pauperizing the Indians so that they may need Federal financial aid for generations to come, robbing them of dignity of morale, and violating the provisions

of the Federal Constitution. I trust that you will report the resolution unfavorably.

NATIONAL CONGRESS OF AMERICAN INDIANS,
N. B. JOHNSON, *President*.

Mr. CURRY. Mr. Chairman, I represent the Tlingit and Haida Indians of Alaska, and I have represented them for the last few months. I also have a contract to represent, which is either signed or about to be signed, for the representation of the various towns in southeastern Alaska which composes all of the Tlingit and Haida Indians who are the Indians who would be affected by this bill.

The CHAIRMAN. In speaking of towns do you refer to a municipal organization or is it a group of natives, or just what is it?

Mr. CURRY. They have various forms of organization, Mr. Chairman. Some of the traditional Indian tribes are banded in groups, and this has reference to them, but there are also corporations under the Indian Reorganization Act, so they are perhaps in both forms, but, in addition, there are municipalities all over the Territory of Alaska, and there is a difference in their form of organization.

I also represent the National Congress of American Indians, of which Mrs. Bronson is secretary and Judge Johnson, of Oklahoma, Claremore, Okla., is president. Judge Johnson also would like to file a statement in opposition to this bill.

I am also authorized to represent the Home Mission Council of North America, which is an interchurch agency of home mission boards, composed of 23 denominations.

I also represent the Alaskan Native Brotherhood which has a membership covering practically all of the Indians in this area.

I want to say first, that pursuant to our understanding at the last session I sent a copy of the transcript of the testimony to all my clients in Alaska. I sent it almost without comment. At the same time, Mrs. Bronson who represents the National Congress of American Indians, visited all of the villages in company with Mr. Petrovich who represents the Indian office. And, Mr. Foster, the superintendent, has reported back to me that no undue pressure was brought in either direction, either for or against the bill, and we got a report back that all of the groups are unanimously opposed to this legislation.

First of all I would like to clear up a possible doubt that may be in the minds of the members of the committee that arises from the testimony given at the last session of this hearing. The members seemed to be of the impression that the people I represented have some sort of a vague, indefinable claim to the forest area in Alaska. I do not think that impression is correct.

One of the reasons—and there may be many reasons why this claim is not vague—is this: It has been recognized by many statutes; it has been recognized by the Department of Justice; it has been recognized by administrative agencies, and finally and more exactly it has been recognized in a recent adjudication by the Department of Interior, in which the Secretary of the Interior, the same Department which is now recommending this legislation, contemplated that this land probably does now belong to the Indians, and had this to say:

The right of ownership over limited areas of land which is established by this adjudication is substantially similar to the right of ownership enjoyed by other

corporations or municipalities in other areas over which sovereignty has been acquired by the United States.

The effect of these adjudications is to advise the three petitioning Indian groups of the exact extent of their property rights, which have not been taken from them or otherwise destroyed and to which they are still legally entitled to use and enjoy.

That is the end of the quotation from the Secretary's opinion.

The CHAIRMAN. Let me see if I understand: Has there not been an adjudication of these rights previously? Apparently this contention has been going on for a good many years, concerning the title to property in Alaska. It would seem unusual to me that there has been no settlement of the matter before this time.

Mr. CURRY. Mr. Chairman, I think in the past the difficulty has been that only individual cases have been taken up, individual people, and the Government disposed of them, and sort of treated the land as public land. The question arose as to whether they were public lands or Indian lands and who had the right to enjoy title to the lands.

This proceeding, which was started 4 or 5 years ago in the Interior Department, was intended and did finally decide it on a bulk basis: And as to the three towns, and the names given, final adjudication by the Secretary of the Interior was made. As to the balance of the towns, a preliminary finding was made by the agents of the Interior Department, including the chief counsel of the Office of Indian Affairs, and the adjudication—it varies as to exact terms—but gives the metes and bounds and monuments and the exact measurement of the lands which are owned by the Indians.

Mr. POAGE. What did that part include?

Mr. CURRY. It included about 8 to 10 percent of the area within the exterior boundry of the national forest according to the adjudication it included about 8 to 10 percent.

Mr. POAGE. Do I understand that the Department of Interior is asking legislation to authorize them to sell this timber over here [indicating], representing some 8 or 10 percent, but that in another finding by the same Department they have found that the Government has title to the Indian reservation?

Mr. CURRY. That is the exact point I want to make.

The CHAIRMAN. Let us clear that up a little further: Do we understand that the Secretary of Interior has final authority to determine the ownership of these lands?

Mr. CURRY. He has authority pursuant to a half dozen statutes which are set out in the ruling and regulations pursuant to which these hearings are held.

The CHAIRMAN. There was discussion the other day about litigation. What does that refer to?

Mr. CURRY. I think the litigation might be regarding the cases where private rights would intervene; but in the situation covered by this bill no private rights intervene at all, and there is no reason this determination which has already been made could not be the basis for the final determination of the title and confirmation of title in the Indians.

The CHAIRMAN. Do you expect that the final decision in these matters will be made by the Secretary of the Interior and that neither the United States Government nor the Indians would have any right

to appeal or any opportunity for further consideration of the matter?

Mr. POAGE. The Secretary of Interior, of course, is a representative of the United States Government.

Mr. CURRY. That is right.

Mr. POAGE. Here is an arrangement about which there has been some dispute; and, in my opinion, here is where the Government would enter into it: The Secretary says this [indicating] belongs to the Indians and this [indicating] is a part of the public land, therefore the United States does not claim any further because the United States, through its highest administrative official who is charged with the responsibility of making the decision for the Government, has no claim.

But in making his decision he finds that it does have jurisdiction over this part [indicating].

Mr. CURRY. I think, perhaps, Mr. Poage, that would not be given back to the Department. The purpose of this bill is for the Congress to reverse a determination of the Department of Interior, and Interior would not be reversing itself.

The CHAIRMAN. I want to see if I get this straight: Did the Secretary of Interior make a final determination in this matter, from which no one can appeal?

Mr. CURRY. To the extent it involves the private rights, certainly an appeal can be made.

The CHAIRMAN. I am not talking about private rights; I am talking about the question involved here. Do you mean that the Secretary of Interior has made a final determination from which no one can appeal?

Mr. CURRY. Yes, Mr. Chairman; he was authorized by Congress, and that certainly is binding as against anyone except the Indians.

The CHAIRMAN. What about the Indians?

Mr. CURRY. As to the Indians, I think they still may have a claim. However, I do not think there is any disposition on the part of the Indians not to cooperate in this situation, especially because they are very anxious that this industry should come to Alaska. But the difficulty with the situation, as I see it, Mr. Chairman, is that the Government will not even discuss the possibility of settlement of this on the basis of the amount the Government has already determined to belong to the Indian people. They want to go in and readjust it so that it covers what has already been decided.

I do not want to say that the Indians would agree on the thing that has already been done, but I think there is a good possibility that if the Government officials, especially the Forestry Service—if the Department of Justice, although I do not think the Government can divide itself—but if those involved will recognize any rights of the Indians in this consideration, if the settlement is made as has already been done in the past in dealing with Indian lands—that is, by recognizing that the Indians have some right—I think the matter can be worked out. I do not think that a settlement necessarily recognizes any rights. But in view of the fact that the Service has further stated the Indians have rights—and they would not have to revive the matter and go all over it again as to any further rights they may have—I think the matter could be settled.

The CHAIRMAN. Let me see if I get this straight: You are talking about a settlement which the legislation seeks to set aside, or are you talking about some future settlement? What has been settled, and what is still unsettled?

Mr. CURRY. It has been settled by the Secretary of Interior that as to the three towns, about 10 percent of the area, belongs to them, and in the same sense they have a deed. As to the balance——

The CHAIRMAN. Then how is that involved in this particular transaction?

Mr. CURRY. It is involved in this transaction, Mr. Chairman, because the statute provides that the timber leases may be made on any part, including that 10 percent, without regard to Indian rights. That constitutes either of two things: Either it is a tort trespass or a condemnation, either one as to this land, the 10 percent at least, and perhaps more, belonging to the Indians. It does not belong to the Forest Service, and therefore the Forest Service has no right to make a lease.

The CHAIRMAN. You say that as to the 10 percent of this the Indians are claiming.

Mr. CURRY. Roughly, 10 percent, Mr. Chairman.

The CHAIRMAN. That has been settled?

Mr. CURRY. Admitted.

The CHAIRMAN. That is, title has been adjudicated, and it has been determined that it rests in the Indians, and they therefore have the authority to deal with reference to the 10 percent.

Mr. CURRY. Yes.

The CHAIRMAN. Is that an undivided 10 percent, or is it 10 percent that has been set out and set aside?

Mr. CURRY. It is 10 percent which has been set out by metes and bounds, with maps, metes and monuments, giving the exact definements.

The CHAIRMAN. Then if the Department of Interior were to come in here and eliminate the 10 percent, there would be no further contention as to that; is that right?

Mr. CURRY. I would say, Mr. Chairman, that that is exactly the basis that was proposed for discussion of settlement when I left this meeting last; it was the understanding that I would go back and try to make settlement.

Now I cannot bind my clients without consulting them, but there was very serious discussion of just such an arrangement as that; and, frankly, I would say, since you asked me the question direct, I would recommend it; that is, if the Indians' title be confirmed under that arrangement that has been fixed by the Interior Department, that they waive their rights to the balance.

The CHAIRMAN. What would be the effect if the Department of Interior were to go ahead as to the nine-tenths of the land, make an arrangement through the Forest Service as to that land, and let the Indians make their own arrangement as to their land? Would there be any objection to that?

Mr. CURRY. I think not, Mr. Chairman. I would have no objection, especially if it were done by consent. I do not think it should be done without asking the Indians, without obtaining an agreement, which could be done very quickly with the Indians and done on very favorable

terms. They could make an arrangement with the Forest Service covering that area—that is, as to the 10 percent along the lines you have suggested, Mr. Chairman, without specifying the matter in detail—that would be quite acceptable.

The CHAIRMAN. As far as the Indians you represent are concerned, they make the assertion at this time that the Department does not have the authority to go ahead and make an agreement concerning that portion of the tract upon which an adjudication has been made?

Mr. CURRY. Mr. Chairman, I do not know that I could say that, but I would say that the Indians would be willing to waive their rights as to the balance; and that, I think, would be enough.

If there is serious consideration of such a proposal as you have suggested, Mr. Chairman, I can get an answer very quickly, and I think I can assure you that the answer would be acceptable.

The CHAIRMAN. Well I am not making a proposal, you understand; I do not know anything about it. I am just asking you what you think of it.

Mr. CURRY. Perhaps I am in a little peculiar position in the situation. The Department of Interior proposed a bill—there have been about 18 or 20 drafts of this bill, and in the last one—I think it is the last one—it gave the Indians 10 percent of the proceeds.

That was not acceptable, really; but in view of the circumstances and the necessity for bringing this industry in, as it was presented to the Indians, it was fairly acceptable to them. But just before Mrs. Bronson went to Alaska to discuss this proposal, the proposal was withdrawn.

Now at any time the departments get together, if this committee is willing to suggest such a thing, with any degree of certainty—of course, I cannot give my assurance very well, and I would not like to make an agreement concerning some proposal that might be withheld again.

The CHAIRMAN. Is that not a rather odd way to go at it? Do you deny that the Department has authority to make an agreement on behalf of the Indians, which may be to their advantage, insofar as the Department's dealing with that interest is concerned? I am talking not about the Department's dealing with the interest of the Indians, of that part of their interest about which there is no dispute as to the right to deal, and let the Indians deal on that part where the title has been adjudicated? Would not that be the more logical way and the better way, perhaps, from the standpoint of all parties to the transaction?

Mr. CURRY. I think so, Mr. Chairman. And I am sure that the Indians would be agreeable to making their dealing directly as to their own territory. You refer to that part over which the Indians have title; and as to the part which the Government is disputing ownership—

The CHAIRMAN. I did not say anything about ownership. I was referring to the right to deal with the interest of the Indians. I did not raise any question about ownership, but the right of the Government to deal with the question.

Mr. CURRY. Mr. Chairman, the Indians claim a much larger amount than just the 10 percent; legally they claim more than just

the 10 percent. My suggestion was that they will insist on at least 10 percent; and as to the balance, I would have to check with them on the question of whether they would be agreeable to a disposal of that by the Government, without regard to their claim.

The CHAIRMAN. Do the Indians dispute the right of the Government to deal with this 90 percent? The special legislation covers only that part which is in dispute; and I am speaking now of the question of the authority of the Department of Interior, or the Forest Service, to deal as to this 90 percent, in making an agreement.

Mr. CURRY. Well, if they have the right, if the Indians admit they have the right to make an agreement—with the Indians?

The CHAIRMAN. No; with anyone.

Mr. CURRY. The pulp mills?

The CHAIRMAN. Yes.

Mr. CURRY. I think if they admit the right of the Government to dispose of the 90 percent they would have to waive their claim to ownership; and in the absence of some understanding or agreement I do not think the Indians would want to do that. But as to the 10 percent I think an agreement very probably could be forthcoming quickly.

The CHAIRMAN. What kind of an agreement?

Mr. CURRY. A relinquishment of the right to the 90 percent.

The CHAIRMAN. Relinquishment of all their property rights in the 90 percent?

Mr. CURRY. Yes.

The CHAIRMAN. You spoke about three towns that would be involved.

Mr. CURRY. A final determination as to the right of the Indians in the three towns and a tentative determination as to the balance; and I found those determinations were generally acceptable among the Indians.

The CHAIRMAN. Then the sum of the determination, as far as the interest of the Indians is concerned, is the 10 percent. Is that right?

Mr. CURRY. That is right, Mr. Chairman.

The CHAIRMAN. And then you say that you think an arrangement could be made whereby the Indians could deal with the pulp interest covering the 10 percent, and that they then would waive what?

Mr. CURRY. They would waive all claims to the 90 percent in exchange for the Government's confirming their right to the 10 percent.

The CHAIRMAN. You mean they would not only concede to the Government the right to deal as to the 90 percent, but that they would concede they had no other property rights in it?

Mr. CURRY. Yes; if that settlement were made.

Mr. ANDRESEN. I want to be sure this is clear to me. I think there is need for some further clarification in view of what Mr. Gardner, the Under Secretary of the Department, had to say in his testimony. He said: "I am confident that the natives have exaggerated the amount of land to which they have a valid claim."

I understood you to say that the land claimed by the Indians had been set out by metes and bounds, and the amount definitely fixed, and it is rather difficult for me to comprehend how their claim should be exaggerated if the land has been set aside under definite descriptions.

Mr. CURRY. Well, Mr. Andresen, it means the amount claimed by

the Indians; that is, the amount that has been admitted up to 10 percent. The exaggeration to which Mr. Gardner refers, I think, is as to the 90 percent; and I think they would be willing to waive as to the 90 percent.

Mr. ANDRESEN. Then I would take it that the Indians' claim is to an undivided interest in the 90 percent?

Mr. CURRY. I think the interest they claim would be of the same nature as that involved in the 10 percent. They have held possessory right, substantially the equivalent of a fee simple title.

Mr. ANDRESEN. How, then, do you set aside what the Indians claim under a metes-and-bounds determination?

Mr. CURRY. There is no question of what their right is there. The question of their right depends upon the question of fact, and they have actually occupied down through the years this land. The question is how much they have never abandoned.

Now according to the view of the Interior Department, as the result of the proceeding in which 33 lawyers participated, they have occupied and never abandoned this 10 percent. Now the Indians might have another contention; they might say, perhaps, exaggerately in the view of Mr. Gardner, that they occupied an additional 90 percent of the whole forest area.

Mr. ANDRESEN. Is the community of Juneau involved in this dispute as to ownership of land?

Mr. CURRY. I think the community of Juneau would be involved in the larger claim. Then there are some other lands——

Mr. ANDRESEN. Do the Indians have any claim to, or do they assert claim to lands occupied by the citizens in the village of Juneau?

Mr. CURRY. Mr. Andresen, the Ninth Circuit Court of Appeals has recently determined that certain areas inside—I believe they said inside—the city of Juneau on the water front were subject to possessory right, and that the United States could not condemn them without compensating the Indians, although they had no record title.

Mr. ANDRESEN. Would that also be true with respect to the city of Ketchikan?

Mr. CURRY. I am afraid I could not answer that question, Congressman; I do not know. I talked with a lawyer, Mr. McCain, of Ketchikan, and he advised me that the town of Ketchikan is covered by a townsite grant, and he told me there is no question of any Indian right in that area.

Mr. ANDRESEN. The question then involved, as I see it, is whether or not the Indians, the natives, have abandoned this land.

Mr. CURRY. Yes.

Mr. GOFF. After hearing this testimony, there are one or two things which are not clear to me with respect to this determination by the Department of the Interior, which was mentioned for the first time today.

I think any such decision should be in the record because, as I understand it, the claim of the Indians is based on two broad grounds: First, as to the smaller quantity to which they claim they have a recognized right; and, second, as to their contention that they have acquired prescriptive or squatter rights to the entire area and which they claim belonged to them at the time the United States purchased

the Territory of Alaska from Russia, and thus the whole area that existed at the time of the purchase.

Now as to the smaller area, which has been determined, that claim has been based on continuous, open, and actual occupation. I think this committee would like to see the written text of any determination that has been made. I think that information should be a part of this record.

Mr. CURRY. I think it would be an excellent idea to put that information in the record, for several reasons—and it is quite long—but the determination was mimeographed, at least a part of it was mimeographed and only 200 copies were made. And, secondly, this constitutes a determination of the property rights of some 7,000 people, and I think it would be very desirable if it could be included.

The CHAIRMAN. How long is it, Mr. Curry?

Mr. CURRY. The decision of the Secretary of the Interior is 28 pages long, with one map attached.

Then the preliminary determination, of which I spoke a moment ago, and which covers the balance of the towns, contains 173 pages, with some 8 or 10 maps. Perhaps that may be beyond the committee's budget.

The CHAIRMAN. It would run into considerable cost to print the entire memorandum. Is there not some summary, that would cover it just as well?

Mr. CURRY. What I intended to put into my testimony and my statement was an excerpt, perhaps several excerpts from the findings of the Secretary of the Interior, and I intended to quote only the title page of the so-called Haas-Goldschmidt report. I suggest that the entire determination of the Secretary of the Interior could be put in the record. It contains all the principles upon which the matter rests.

The CHAIRMAN. That is the 28-page statement?

Mr. CURRY. Yes.

The CHAIRMAN. I see no objection to that.

Mr. GOFF. Mr. Chairman, what we are really concerned with is a summary.

The CHAIRMAN. Yes.

Mr. GOFF. I think that is all we really need for our purpose.

The CHAIRMAN. This 28-page document is a summary of the findings and the decision?

Mr. CURRY. Yes; I think it would be a very good one, and I might include in my statement a two- or three-page summary of the other statement, the final determination of the Department.

The CHAIRMAN. I think that would be all right.

Mr. CURRY. Yes. The Department of Agriculture submitted to the Senate committee a single map showing the areas which have been determined, either by the Secretary direct, or by the Haas-Goldschmidt report, and I might add that that includes at least one or two maps.

The CHAIRMAN. Without objection the statements referred to will be included.

(The statements referred to follow:)

SUMMARY

1. Claims of natives of Hydaburg, Klawock, and Kake to exclusive possession of lands aboriginally occupied are rejected as to approximately 92 percent of the areas claimed, and upheld as to the remaining 8 percent, adjacent to native villages.

2. Claims of natives of Hydaburg, Klawock, and Kake to exclusive possession of ocean waters are rejected.

3. Claims are allowed with respect to right to hunt, fish, trap, and gather wild produce in common with other persons in greater portion of area claimed so long as such area remains in public ownership.

4. Possessory rights in 8 percent of area claimed which has been continuously and exclusively occupied by natives since May 17, 1884, are protected by section 8 of the act of May 17, 1884 (23 Stat. 26); section 14 of the act of March 3, 1891 (26 Stat. 1101); act of May 14, 1898 (30 Stat. 409, 413); act of June 6, 1900 (31 Stat. 321, 330); and act of May 25, 1926 (44 Stat. 629).

5. Where native occupancy has been continuous and exclusive in certain beaches, submerged lands, inland waters, and bays adjacent to lands continuously and exclusively occupied, such use and occupancy is protected by law.

6. The policy of recognizing aboriginal possessory rights where native possession has been continuous and exclusive applies as well in Alaska as in the States of the Union.

7. Aboriginal claims may be asserted by communities, such as petitioner communities, which consist of natives traditionally organized along tribal lines.

8. Findings of fact of presiding officer are modified to make more certain and definite the areas referred to, and as so modified are affirmed.

9. Conclusions of law of presiding officer are modified to eliminate ambiguity and as so modified are affirmed.

UNITED STATES DEPARTMENT OF THE INTERIOR,

OFFICE OF THE SECRETARY,

Washington, July 27, 1945.

CLAIMS OF THE NATIVES OF HYDABURG, KLAUOCK, AND KAKE, ALASKA

STATEMENT OF FACTS

Hearings upon the petitions of the Indians of Hydaburg (filed June 28, 1944), Klawock (filed April 7, 1942, amended July 6, 1944), and Kake (filed July 5, 1944), Alaska, pursuant to the provisions of section 201.21b of the Regulations for Protection of the Commercial Fisheries of Alaska, 1944, were scheduled to be held, respectively, on September 15, 20, and 25, 1944. Notice of the hearings appeared in three southeastern Alaska papers and in the Federal Register (9 F. R. 9171, July 26, 1944).

The Indians of Hydaburg asserted a claim to the exclusive use and occupancy of the following lands and waters:

"The western shore of Prince of Wales Island from Waterfall to Cape Chacon; the eastern shore of Dall Island from Cape Muzon to the northern end of said island; the western shore thereof from the northernmost point thereof to Cape Lookout; the shores of Forrester Island and of all the islands lying between Prince of Wales Island and Dall Island; the waters and submerged land for a distance of three thousand (3,000) feet from said shores; the lakes and the streams emptying into said waters; and the unpatented lands drained thereby."

The Klawock petition claimed:

"The western shore of Prince of Wales Island from Point Baker on the north to Waterfall on the south; the shores of all islands to the seaward including Baker Island, Suemez Island, and Kuiu Island south of Point Ellis on the west shore and south of Three Mile Arm on the east shore; and the names of the larger islands in this area are Baker Island, Suemez Island, San Fernando Island, Lulu Island, Noyes Island, St. Joseph Island group, Anguella Island group, Timbered Island, Coronation Island, Spanish Island, Warren Island, Hazy Island, and Kosciusko Island; the waters and submerged lands for a distance of three thousand (3,000) feet from said shores; the lakes and streams emptying into said waters; and the unpatented lands drained thereby."

The natives of Kake asserted exclusive claim to:

"The northern shore of Kupreanof Island from Boulder Point to Cape Bendel, and the western shore from Cape Bendel to Summer Strait including Hound Island and other adjacent islands, Turnabout Island off the northern shore of Kupreanof Island; the eastern shore of Kuiu Island from the southern end of Alvin Bay to Cornwallis Point including Keku Islets, Pup Island, Monte Carlo Island, Conclusion Island, Summer Island, Strait Island and other adjacent islands; and the western shore from Cornwallis Point to the northern end of Port Malmesbury including Windfall Island and other adjacent islands; the southeastern shore of Admiralty Island from Point Brightman to Gambier Island including Elliott Island and other adjacent islands; the eastern shore of Baranof Island from (and including) Red Bluff Bay to (and including) Cape Ommaney; and the shores of Farragut Bay on the mainland of Alaska; the waters and submerged lands for a distance of three thousand (3,000) feet from said shores; the lakes and the streams emptying into said waters; and the unpatented lands drained thereby to a distance of three miles upland from the high-water mark."

The natives of Kake also asserted a claim to the use in common with other Tlingit bands of the following areas:

"The shores of Kuiu Island south of Alvin Bay on the east and Port Malmesbury on the west; the shores of Seymore Canal on Admiralty Island, the mainland shore from Point Coke, on the north side of Holkham Bay, to Grant Point, on the south side of Farragut Bay, including the adjacent islands, the shores of Red Bay on Prince of Wales Island; the waters and submerged lands for a distance of three thousand (3,000) feet from said shores; the lakes and the streams emptying into said waters; and the unpatented lands drained thereby to a distance of three miles upland from the mean high-water mark."

Rules of practice for the conduct of the hearings were published in 9. F. R. 10928 (Sept. 6, 1944). All interested parties who desired to oppose the claims were afforded an opportunity to appear at the hearings. The Department of Agriculture was asked to be represented if it so desired.¹

The presiding officer permitted the Hydaburg petition to be amended to include the entire western shore of Dall Island. In addition to the hearings which were held in each of the villages, supplementary hearings were conducted on September 27-29, 1944, at Ketchikan, Alaska, and on November 15-21 at Seattle, Wash., at which testimony concerning all of the claims was taken. Upon order of the presiding officer, briefs were filed by all interested parties. The final report of the presiding officer was submitted to the Secretary on March 1, 1945, with copies to each of the parties. The petitioners filed exceptions thereto. A statement was submitted on April 6 by the Alaska Canned Salmon Industry in answer to the exceptions, and the presiding officer on April 12, 1945, transmitted to the Secretary his recommendations thereon.

FINDINGS OF FACT

The finding of the presiding officer are modified in the respects hereafter noted and as so modified are hereby affirmed:

1. Findings Nos. 1² and 2³ of the presiding officer, as qualified by finding No. 7⁴ of the presiding officer, are affirmed.
2. Finding No. 3⁵ of the presiding officer is affirmed.

¹ Letter from Assistant Secretary Chapman, dated August 23, 1944, to the Secretary of Agriculture.

² 1. Petitioners, or claimants have not established with respect to claimed right of exclusive use of tidal waters (for fishing), involved in the areas described in the petition, the exclusive possession of definable territory, in such areas, that is necessary to the recognition of such exclusive use claimed by them not being shown.

³ 2. There has been an abandonment by claimants of an exclusive fishing right in tidal waters, claimed by petitioners, by acquiescence in the use of such waters for fishing by non-Indians.

⁴ 7. Since aboriginal times the only fishing waters in the areas included within claimants' petitions, where claimants have asserted exclusive fishing rights are an unknown number of small streams and nearby bays and harbors.

⁵ 3. Such evidence of aboriginal rights in tidal waters, produced at the hearings largely dealt with fishing uses to meet domestic food requirements, now not so essential, through a change in the Indian economic conditions, and this use is not shown to be substantially impaired under present conditions.

3. Finding No. 4 of the presiding officer⁶ is modified by deleting the words "which are not upon evidence taken, capable of accurate or definite definement as to either the extent of the areas or boundaries thereof" and, as so modified, is affirmed.

4. Finding No. 5 of the presiding officer is modified, in the light of his recommendation of April 12, 1945, to read as follows, and, as so modified, is affirmed:

"5. Towns and villages occupied as of the present time, may be said to have origin in aboriginal right, though in the case of Hydaburg and Klawock a change of situs has been had in recent times; some streams (Salmon), gardens, trapping grounds, forest areas for timber products, and other uses have continued to be made with claims to exclusive right of use.

"With a change in Indian economic position and a reduction in population these uses have in part been abandoned."

5. Finding No. 6⁷ is modified by deleting the words "not accurately defined" and, as so modified, is affirmed.

On the basis of the evidence adduced and available public records, the foregoing findings are further supplemented by the following additional findings:

6. The natives of Hydaburg, Klawock, and Kake constitute, respectively, Indian communities organized along tribal lines and have been traditionally recognized as such by the Indians, by scientific observers, and by administrative authorities.

7. On May 17, 1884, and for decades prior thereto, the natives of Hydaburg exclusively occupied and exclusively claimed as their own the lands and waters set forth in the amended petition, totaling approximately 905,000 acres; the natives of Klawock similarly occupied and claimed the area set forth in their petition, except for Kuiu Island, totaling approximately 1,234,000 acres; and the natives of Kake similarly occupied and claimed the area set forth in their petition, except for Kuiu Island, totaling approximately 1,200,000 acres.

The native population of Hydaburg between 1836 and 1884 ranged from approximately 1,735 to approximately 647 at different times; the per capita acreage utilized and claimed thus ranged from approximately 525 to approximately 1,400 acres. In the same period the natives of Klawock numbered between 1,800 and 500. The population of Kake during this period ranged from approximately 800 to approximately 568. Thus, their per capita acreage amounted to between approximately 685 and 2,468 acres for Klawock; and between 1,500 acres and 2,112 acres for the natives of Kake. This compares with recognized aboriginal landholdings in the State of Washington averaging approximately 3,136 acres per capita (at the time such recognition was first accorded), and in the United States as a whole averaging approximately 6,400 acres per capita. The natives of southeastern Alaska were able to maintain a relatively high standard of aboriginal subsistence in a relatively small area by reason of their advanced technology and trade, which included intensive use of fisheries, the preservation of large quantities of fish through drying and smoking, the building and navigation of the largest boats made in aboriginal North America, and the carrying on of extensive trade in dried fish, furs, copper, blankets, and other articles of handicraft along the coast from Oregon to the Aleutian Islands.

8. Since 1884 the natives of Hydaburg, Klawock, and Kake have ceased to maintain exclusive occupancy of approximately 92 percent of the foregoing described areas, either by reason of voluntary abandonment of lands once claimed or by acquiescence in the superior power and authority of the Federal Government in patenting or otherwise disposing of or controlling certain lands which effectively interfered with Indian use not only of the lands so disposed of but of other lands thereby separated from convenient access.

9. Decision on the areas, totaling approximately 2,008,000 acres, claimed by the natives of Kake in common with other bands of the Tlingit Tribe, and in-

⁶ 4. Within land areas described, in the three petitions, the claimants established a prima facie case of aboriginal right to possession and occupancy of some portions of the areas claimed which are not upon evidence taken, capable of accurate or definite definement as to either the extent of the areas or boundaries thereof.

⁷ 6. Some areas, not accurately defined, are shown to be subject to occasional use as camps when the Indians are engaged in seasonal fishing and curing their catch; smoke-houses are more or less scattered through the areas in question, all of which uses appear based upon aboriginal possession with present, and past, basis in an exclusive use.

cluding all of Kuiu Island, exclusively claimed in part by the natives of Kake and in part by the natives of Klawock, is reserved in order to allow other bands to be heard.

10. From May 17, 1884, to the present day the natives of Hydaburg have continuously and exclusively occupied and used, and claimed as their property, an area in the immediate vicinity of the village of Hydaburg amounting to approximately 101,000 acres, and described as follows:

Beginning at a point at the head of Soda Bay, approximate latitude $55^{\circ} 17' N.$, longitude $132^{\circ} 55' W.$; from the initial point, at lowest low tide, westerly along the line of lowest low tide on the south shore of Soda Bay to a point opposite Halibut Nose; southeasterly along the line of lowest low tide on the north shore of North Pass and the east shore of Sukkwan Strait to Eck Point; northerly along the line of lowest low tide on the west shore of Hetta Inlet to a point one mile above Deer Bay; northerly and westerly along the divide at the head of the drainage into Sukkwan Strait and North Pass to the point of beginning; and Sukkwan Island; and including the rocks and islets within 3,000 feet from such shores, and further including all lakes within the foregoing areas, all inlets where the distance from shore to shore is less than 1,000 feet, all streams, and the waters within 500 yards of the mouth of each such stream as defined pursuant to the act of April 16, 1934 (48 Stat. 594, 48 U. S. C., secs. 232, 233); excepting from the foregoing any patented lands.

The natives of Klawock have, since May 17, 1884, continuously and exclusively occupied and used, and claimed as their property, the following area in the vicinity of the town of Klawock:

Beginning at a point one mile north of the mouth of the creek emptying into Tuxekan Passage, north of the town of Tuxekan on Prince of Wales Island, on the east shore of Tuxekan Passage, in approximate latitude $55^{\circ} 55' N.$, longitude $133^{\circ} 15' W.$; thence easterly and southwesterly along the line of lowest low tide on the east shores of Tuxekan Passage, Tonowek Narrows, and Tonowek Bay to a point of shore east of St. Phillip Island; westerly to east shore of St. Phillip Island; northwesterly, southwesterly, and southeasterly along the shore of said island to point on east shore; easterly to point on Prince of Wales Island; easterly along the north shores of San Christoval Channel, San Alberto Bay, and Shinaku Inlet to a point on shore north of Wadleigh Island; southerly through the waters of Shinaku and Klawock Inlets east of Wadleigh Island and west of Klawock Island to a point on shore of Prince of Wales Island south of Klawock Island; southwesterly along the line of lowest low tide on the east shore of Klawock Inlet to a point approximately midway between the towns of Craig and Klawock, in approximate latitude $55^{\circ} 31' N.$, longitude $133^{\circ} 08' W.$; southeasterly along the divide between Klawock Lake and Port St. Nicholas to a point on the divide between Klawock Lake and Twelvemile Arm; northerly along the divide to the divide east of Black Bear Lake; northwesterly along divide east of Black Bear Lake to a point one mile east of Big Salt Lake; westerly at a distance of one mile from shore along the north shores of Big Salt Lake, Shinaku Inlet, San Alberto Bay, and San Christoval Channel; northeasterly and westerly at a distance of one mile inland from shore, along the east shores of Tonowek Bay, Tonowek Narrows, and Tuxekan Passage to a point one mile from shore north of the town of Tuxekan, westerly to point on shore one mile north of the mouth of creek north of town of Tuxekan and the place of beginning, together with the rocks and islets within 3,000 feet of said shores; and further including all lakes within the foregoing areas, all inlets where the distance from shore to shore is less than 1,000 feet, all streams, and the waters within 500 yards of the mouth of each such stream as defined pursuant to the act of April 16, 1934 (48 Stat. 594, 48 U. S. C., secs. 232, 233); excepting from the foregoing any patented lands; containing approximately 95,000 acres.

The natives of Kake have, since May 17, 1884, continuously and exclusively occupied and used, and claimed as their property, the following area in the vicinity of the town of Kake:

Beginning as a point on the north shore of Keku Strait, at the town of Kake, on the north end of Kupreanof Island, in approximate latitude $56^{\circ} 58' N.$, longitude $133^{\circ} 56' W.$; thence southeasterly along line of lowest low tide on the north shores of Keku Strait and Hamilton Bay; westerly on south shore of Hamilton Bay to Hamilton Point; southeasterly and southerly along the north and east shores of Keku Strait to the south end of island on north shore of Sumner Strait; easterly one mile to a point on north shore of said strait;

northerly at a distance of one mile from shore along the east shores of Keku Strait and Big John Bay to a point one mile east of north end of bay; northerly to a point one mile east of east end of Hamilton Bay; westerly to a point one mile from shore and five miles southeast of the town of Kake; northeasterly for a distance of two miles, to a point; northwesterly for a distance of ten miles, to a point; southwesterly for a distance of two miles, to a point one mile distance from shore; northerly and southeasterly at a distance of one mile from shore to a point near West Point; northerly one mile to a point at West Point on the south shore of Frederick Sound; westerly and southeasterly along line of lowest low tide on the south shore of Frederick Sound and north shore of Keku Strait to the town of Kake and the place of beginning, including the rocks and islets within 3,000 feet of said shores; and further including all lakes within the foregoing areas, all inlets where the distance from shore to shore is less than 1,000 feet, all streams, and the waters within 500 yards of the mouth of each such stream as defined pursuant to the act of April 16, 1934 (48 Stat. 594, 48 U. S. C., secs. 232, 233); excepting from the foregoing any patented lands; containing approximately 77,000 acres.

11. The "natives of Hydaburg" number today approximately 575;⁸ and the per capita share of these natives in the area which has remained within their exclusive possession and use is approximately 180 acres. The per capita share of the natives of Klawock, numbering approximately 500,⁹ amounts to approximately 190 acres, and that of the natives of Kake, who number approximately 380, amounts to approximately 200 acres. These areas compare with contemporary landholdings of Indians in the State of Washington averaging approximately 180 acres per capita, and of Indians in the continental United States as a whole averaging approximately 244 acres per capita.

12. The following areas have been effectually removed from Indian occupancy and possession by reason of extensive mineral entries, homestead patenting and other disposition of lands:

HYDABURG

Beginning at a point at the town of Sulzer on Hetta Inlet, approximate latitude 55°17' N., longitude 132°38' W.; thence southeasterly along trail to a point on the divide between Hetta Inlet and West Arm of Cholmondeley Sound; southeasterly along divide between Hetta Inlet and South Arm to the divide between Nutkwa Lagoon and Klakas Inlet; southwesterly along said divide to Keete Inlet; thence along ordinary high water on north shore of Keete Inlet and along shores of Nutkwa Inlet and Nutkwa Lagoon to Lime Point; thence northerly along ordinary high water on east shore of Hetta Inlet to Sulzer and the place of beginning; containing approximately 59,900 acres.

KLAWOCK

Beginning at a point at the town of Shakan on the north end of Kosciusko Island in approximate latitude 56°08' N., longitude 133°28' W.; thence northeasterly along ordinary high water on the east shore of Shakan Strait and easterly and southerly along the south and west shores of El Capitan Passage to Devilfish Bay; southwesterly along the north shore of Devilfish Bay to a point at the west end of said bay; westerly to the east shore of Shipley Bay; thence along ordinary high water on the north shore of Shipley Bay, east shore of Sumner Strait, and south shores of Shakan Bay and Shakan Strait to the town of Shakan and the place of beginning, containing approximately 27,000 acres.

Beginning at a point on the north shore of Shakan Bay west of Calder Bay on the north end of Prince of Wales Island, in approximate latitude 56°11' N., longitude 133°32' W.; thence northerly to the divide between Sumner Strait drainage on the north and the drainage of Calder Bay, Shakan Bay, Shakan Strait, and El Capitan Passage on the south; southeasterly along said

⁸ The population of the "natives of Hydaburg" consists of the total number of Haidas in southeastern Alaska, minus the Haidas of Kasaan, as compiled in the 1940 census.

⁹ This figure, based on a survey made by the Bureau of Indian Affairs for the year ending June 30, 1935, is used instead of the latest statistics of the population so as to include members of the village who are temporarily absent.

divide to a point in approximate latitude 55°56' N., longitude 133°03' W.; southwesterly on the divide between Sarkan Lake and Tuxekan Passage to a point one mile north of the mouth of creek emptying into Tuxekan Passage north of the town of Tuxekan; northwesterly along ordinary high water on east shore of Tuxekan Passage, east and north shores of El Capitan Passage, and the north shore of Shakan Bay to Calder Bay; thence along shore around Calder Bay and to the place of beginning, containing approximately 75,600 acres; Marble Island, containing approximately 6,500 acres; Baker Island, containing approximately 30,000 acres.

KAKE

Beginning at a point at Cape Ommaney on the southern end of Baranof Island, thence northerly along ordinary high water on the east shore of said island to Red Bluff Bay; northwesterly along the south shore of Red Bluff Bay to a stream near end of bay; southwesterly to the divide between Chatham Strait and the Pacific Ocean; southerly along said divide to Cape Ommaney and the place of beginning, containing approximately 131,800 acres.

13. As to all areas within the scope of the three petitions which are not covered by findings 9, 10, and 12, totaling approximately 2,735,000 acres, the petitioners have ceased to maintain exclusive occupancy. Within this area, however, so far as claimed by the respective petitioners, each of the three native groups has continued to use existing trails and waterways, and to hunt, fish, gather natural resources, and trap, subject to applicable conservation regulations, except in relatively small areas disposed of by the Federal Government and thereafter closed to hunting, fishing, trapping, or trespass.

14. Such hunting, trapping, and fishing have been carried on by petitioners in common with all other citizens, except in those areas closed to commercial fishing where natives are legally entitled to take fish for subsistence purposes.

Petitioners have appealed from all the findings of fact of the presiding officer. Their appeal is rejected.

CONCLUSIONS OF LAW

I hereby affirm the following conclusions of law adopted by the presiding officer;

1. Occupancy necessary to establish aboriginal possession of land by an Indian tribe, band, or individual Indian is a question of fact.

2. Lands included in the ancestral home of Indians in the sense that they constituted definable territory occupied exclusively by them are lands to which they have "Indian title" until same is extinguished by the Congress.

3. The policy of the Government to respect the aboriginal possession of land by Indians applies to lands ceded by Russia, under the treaty of 1867, with the United States.

4. An Indian aboriginal claim to land will be recognized although it has no basis in any treaty, statute, or other formal Government action.

5. Intent of Congress to extinguish Indian title through statutory enactment is not to be lightly implied, all doubts in the construction of the statute being resolved in favor of the Indians.

6. The policy of the United States in dealing with the Indians has been to accept the subdivisions of the Indians into such tribes or bands as the Indians themselves adopted, and to treat with them accordingly.

The presiding officer's conclusion concerning the abandonment of aboriginal rights is modified to read as follows:

7. Abandonment of an exclusive aboriginal right occurs when the aboriginal claimants have indicated a general consent to the participation by others in those rights. A right to hunt or fish in common with others, or any other nonexclusive aboriginal right, is not abandoned by the consent of the aboriginal claimants to participation by others in the exercise of such right.

The presiding officer's conclusions of law are supplemented by adding the following conclusions:

8. Those lands referred to in findings 12 and 13 (3,066,000 acres) are legally open to disposition under applicable public land laws without encumbrance of Indian title.

9. The petitioners' possession of those lands referred to in finding 4, and more precisely defined in finding 10 (273,000 acres), is protected not only by the policy referred to in conclusion 3 but also by the following statutes: Section 8 of the act of May 17, 1884 (23 Stat. 24); section 14 of the act of March 3, 1891 (26 Stat. 1101); act of May 14, 1898 (30 Stat. 409, 413); act of June 6, 1900 (31 Stat. 321, 330), and act of May 25, 1926 (44 Stat. 629).

10. All rights of petitioners in tidelands and inland waters and bays are subject to the public right of navigation.

OPINION

In 1884 the Congress of the United States declared that the relative rights of Alaskan natives and settlers ought to be investigated and defined. The problem has simmered for some 61 years and the failure of various administrative investigations to reach any definitive solution has served as a damper upon Indian and white activities looking towards the improvement and development of our great northern Territory. The decisions reached by Judge Hanna in these three cases, and reduced to more precise terms by the foregoing findings, represent an attempt to solve this problem within an area of 3,339,000 acres in the southeastern corner of Alaska.

Under the terms of that solution it is found that some 273,000 acres, approximately 8 percent of the amount claimed by the three Indian villages which are petitioners in these cases, has remained for 61 years and more in the exclusive possession of these villages, which possession is legally protected by the act of May 17, 1884, and several subsequent statutes. The claim of these villages to exclusive possession is denied as to the remaining 92 percent of the area claimed. In parts of this larger area where exclusive Indian possession has been extinguished in one way or another, the Indians still have a right to gather natural resources, hunt, fish, and trap, so long as the lands in question remain in public ownership. The claim of the Indians to exclusive possession of open ocean waters is denied in toto. Within limited areas, however, the Indians have established a right, subject to applicable conservation laws and regulations, and to the public right of navigation, to use beaches, streams, inlets, and submerged lands from which their sustenance has been traditionally taken.

The question of establishing Indian reservations is not at issue in this proceeding and nothing contained in this decision is to be regarded as requiring or precluding the establishment of Indian reservations.

An Indian reservation, in the original sense of the term, comes into existence when Indians sell part of their traditional landholdings to the Federal Government and reserve the remainder of their holdings for their own use. If the Indians involved in these cases shall see fit to sell and if the Federal Government shall see fit to purchase part of the areas now occupied by these villages, the remainder that is reserved from sale may properly be called an Indian reservation. But any such transaction would be a matter of mutual consent which is no part of the problem presented by these hearings.

The rights of ownership over limited areas of land which is established by this adjudication is substantially similar to the right of ownership enjoyed by other corporations or municipalities in other areas over which sovereignty has been acquired by the United States. The only special complication arises from the fact that in this case the muniments of title are for the most part those of an unlettered people. Had the Tlingit and Haida Indians given each other paper title deeds prior to the entry of white men into the Territory, there would be no question of their rights to lands which they have actually occupied from time immemorial. The lack of such paper title deeds does not deprive these people of a right to property although it makes more difficult the task cast upon this Department of determining exactly what their property rights are. That task has been accomplished as a result of the assiduous care with which the 33 attorneys who have appeared in these proceedings have gathered and presented evidence which takes 2,715 pages of the published record, not counting many thousands of pages of supplementary exhibits and references.

These adjudications do not purport to settle the issue between the Indians and the United States resulting from past invasions of Indian property rights. That issue remains for adjudication by the Court of Claims under the Tlingit and Haida Jurisdictional Act of 1935 (49 Stat. 388), as amended by the acts of June 5, 1942 (56 Stat. 523), and June 4, 1945 (Public Law 70, 79th Cong., 1st sess.). The only

effect of these adjudications is to advise the three petitioning Indian groups of the exact extent of the property rights which have not been taken from them or otherwise destroyed and which they are still legally entitled to exercise and enjoy, and on the other hand, to advise non-Indians of the areas within which homestead patents, mineral entries, fish-trap locations, and other forms of use or disposition of public resources can be validly enjoyed without encumbrance of Indian title.

Before coming to the merits of the issues dealt with in these adjudications the preliminary question of departmental jurisdiction must be faced.

1. THE QUESTION OF JURISDICTION

Various protestants in these proceedings have questioned the authority of the Department of the Interior to determine the existence of the aboriginal possessory rights claimed by the petitioners or to take any administrative action based upon such determinations. In its narrowest terms the answer to that question is given by the White Act of June 6, 1924 (43 Stat. 464), as amended, by which the Secretary of the Interior (since the transfer to him by the President's Reorganization Plan No. 2 of May 9, 1939 (53 Stat. 1433, 5 U. S. C., sec. 133s), of the powers conferred by that act), is required to fix permissible methods of fishing on the Alaskan coast. In carrying out that responsibility it becomes necessary to determine whether portions of the coast or of the coastal waters are subject to possessory rights of one sort or another with which the erection of fish traps might interfere. The present proceedings were therefore instituted under section 201.21 (b) of the Alaskan Commercial Fishery Regulations, which provides that traps shall not be built on Indian lands without the consent of the Indian owners and establishes a hearing procedure for determining whether any particular areas are subject to Indian possessory rights.

The foregoing, however, would be only a partial answer to the problem of departmental jurisdiction, for the issues in the case go beyond the central question of fish-trap allocation and involve inextricably related questions of upland ownership. The responsibilities of the Department of the Interior in this connection grow out of its statutory responsibilities for the disposition of the public lands and resources of the United States. In disposing of public resources, whether through the homestead laws, the Taylor Grazing Act, the mineral leasing laws, the Alaskan fishery laws, or any of the other numerous statutes by which this Department is governed, one fundamental and recurrent principle that guides this Department is the principle of respect for private possessions. Such possessions, lawfully established, are entitled to the fullest respect, whether they are held by Indians or by nonIndians, and whether they lie in Alaska or any other area under the flag of the United States. The Interior Department has no desire and no right to treat as public lands any lands which are subject to legitimate private or municipal interests. Such interests are not always evidenced by documentary muniments of title. Particularly is this true in the Territory of Alaska, where large parts of the resident population live and draw their living far from recorders' offices. As a result of the practical conditions of Alaskan life, the possessions of many Indian, Eskimo, and white residents of that Territory rest on custom and long-continued occupancy, rather than on paper titles. These rights the Congress and the Interior Department have always tried to respect.¹⁰

¹⁰ A circular sent to registers, receivers, and United States surveyors-general, approved by the Secretary of the Interior on October 27, 1887, contained the following instructions, which are still in force:

"You are enjoined and commanded to strictly obey and follow the instructions of the above circular and to permit no entries upon lands in the possession, occupation, and use of Indian inhabitants, or covered by their homes and improvements, and you will exercise every care and precaution to prevent the inadvertent allowance of any such entries. It is presumed that you know or can ascertain the localities of Indian possession and occupancy in your respective districts, and you will make it your duty to do so, and will avail yourselves of all information furnished you by officers of the Indian service.

"Surveyors-general will instruct their deputies to carefully and fully note all Indian occupations in their returns of surveys hereafter made or reported, and the same must be expressed upon the plats of survey" (6 L. D. 341, 342).

On March 14, 1932, Secretary Wilbur wrote:

"In adjudicating applications for patents to public domain in the Territory [of Alaska] careful inquiry is always made to ascertain whether or not any native rights are involved" (letter to Congressman Edgar Howard, dated March 14, 1932, hearings before Indian Affairs Committee on S. 1196, 72d Cong., 1st sess., 15-16 (1932)).

Protestants' witness, Mr. Harold Waller, testified (R. 2470) that a surveyor has to swear to an affidavit indicating that no native claims are interfered with before a patent is issued (49 L. D. 592; 53 L. D. 593).

The principle of nondiscrimination, to which both sides in this controversy appeal, certainly requires that Indian rights based on custom and occupancy should have as much respect as the rights of miners and missionaries, similarly based. If Indian possessory rights were disregarded, white possessory rights would be undermined in the same degree.

Public withdrawals of Alaskan land are accordingly made "subject to valid existing rights." The phrase, "subject to valid existing rights" includes rights derived from Indian occupancy as well as those derived from other facts, which other departments of the Government have undertaken to acknowledge.¹¹

The policy of the United States with respect to native rights in Alaska does not differ from its policy with respect to the rights of prior inhabitants in any other territory which the United States has acquired. This Nation has always respected the possessory rights of the local inhabitants in every territory which it has acquired, whether by cession or by conquest. More than 95 percent of the continental public domain acquired by the United States since 1776 has been purchased by the Federal Government from its original Indian owners, and it has been estimated that the Federal Government has paid in excess of \$500,000,000 for the lands thus sold. Our acquisition of sovereignty over the Philippines was never used by us as an excuse for disregarding the possessory rights of the Filipinos even where those possessory rights were based on usage rather than on paper title (*Carino v. Insular Government*, 212 U. S. 449). In Hawaii we have recognized the validity of native property rights based on customary usage even when these rights were of a character alien to the Anglo-American common law (*Damon v. Hawaii*, 194 U. S. 154; *Carter v. Hawaii*, 200 U. S. 255; act of June 17, 1944 (Private Law 305, 78th Cong., 2d sess., providing compensation for the taking by the United States of private fishery rights in Pearl Harbor, Hawaii)). The tradition of good faith in respecting possessions antedating American sovereignty is as applicable to Alaska as it is to any other area under American sovereignty.

It is against this background that the present controversies must be approached.

2. COMMUNAL AND INDIVIDUAL CLAIMS

Practically all of the protestants have conceded that the Indians of Alaska are entitled to some possessory rights.¹² A serious question has been raised, however, as to whether the claim of these rights has been presented in a valid form or whether each of the hundreds of Indians concerned in those proceedings should have filed a separate petition. As a practical matter it must be said that the difficulties which these cases have presented would be multiplied a thousandfold, the time required for their disposition would be greatly prolonged and the cloud thereby thrown over titles to land and the course of development of southeastern Alaska would be vastly extended if it were necessary for the Government to consider separately the claim of the each individual Indian. As a practical matter the presentation of these claims collectively by the three Indian villages which are the petitioners in these proceedings, is a very great convenience to the Government and to the public—as much of a convenience as arises from the fact that the large number of packers and miners interested in these proceedings have likewise appeared collectively through their associations in presenting their common interests.

Apart, however, from the practical considerations in favor of treating Indian claims as claims of three villages rather than as claims of several hundred individual Indians, I find no merit in the legal argument that the only possessory claims which may be asserted by Alaskan natives are individual claims.

This issue was presented to the Congress in connection with the Tlingit and Haida Claims Act of 1935 and the Congress framed the act in terms of tribal

¹¹ See hearings, Senate Subcommittee on Indian Affairs (74th Cong., 2d sess., pt. 36 (Alaska), p. 19907), for statement by representative of Department of Agriculture; letter from Secretary of War, February 11, 1943, to Secretary of the Interior, promising to compensate natives for impairment of their rights due to War Department activities.

¹² Among the concessions made by the protestants are the following points: (1) Indian aboriginal rights may exist in the absence of express statutory or treaty grant; (2) aboriginal rights may exist in Alaska; (3) these rights, whatever they may be, were not extinguished by such orders as that establishing the Tongass National Forest; (4) the best guide to the nature and status of such rights in southeastern Alaska is the Tlingit and Haida Claims Act.

or communal rights. It rejected the proposal that individual possessory claims should be included in the act. The act refers expressly to lands of the Tlingit and Haida Indians "or other tribal or communal property rights." To suppose that Congress gave to nonexistent tribes a right to sue for the loss of rights which they had never had and denied individuals a right to sue for property which belonged to them is to make of the Claims Act a cruel hoax. Not only have tribes and tribal towns or communities been recognized by the Territory, which has left law and order matters largely to the handling of the local tribes and villages, but their governing powers have received recognition by this Department, pursuant to the Wheeler-Howard Act of June 18, 1934 (48 Stat. 984), and its Alaska amendments of May 1, 1936 (49 Stat. 1250), and in the approval of constitutions recognizing the capacity of various native communities (e. g., Kasaan, Hoonah, Chilkat, Saxman, Tyonek, Wales) to exercise municipal functions.¹³

Statements cited to prove that Indian tribes do not exist in Alaska show on closer reading that they refer not to all the natives of Alaska but only to certain groups which no longer maintain tribal relations or for whom tribal relations would be an unsatisfactory basis of present-day economic organization. It must be remembered that most of the Alaska natives are not Indians but Eskimos or Aleuts, whose forms of organization may differ considerably from those of the Indians. All the evidence presented at these hearings supports the conclusion that the villages of petitioners are tribally organized.¹⁴

Congress recognized the existence of tribes in Alaska when it legislated concerning the "missionary stations-among the Indian tribes" in the Alaska Organic Act of May 17, 1884 (23 Stat. 24, 26), and its amendments of June 6, 1900 (31 Stat. 321, 330), when it referred to "Indians of the Tsimpsean or Haida Tribe" in the act of March 4, 1907 (34 Stat. 1411), when it made the provisions of the Wheeler-Howard Act of June 18, 1934 (48 Stat. 984), concerning tribal organization, applicable to Alaska (secs. 13 and 16; 25 U. S. C. secs. 473, 476), and in the 1935 Claims Act (49 Stat. 388), when it legislated for tribal claims exclusively. The President and the Senate did not believe that there were no tribes in Alaska when they expressly referred to "the uncivilized tribes" in the Treaty of Cession. The Territorial Legislature of Alaska also recognized the existence of tribes in the act of April 21, 1945 (ch. 11, 1915, Session Laws, 2d sess.), providing that any village "whose inhabitants are members or descendants of members of the Tlingit, Tsimpsean, or Haida Indian Tribes, or other native tribes of Alaska, having not less than 40 permanent adult inhabitants may form a self-governing village organization for the purpose of local government."

Court decisions have frequently referred to Alaskan tribes and bands (*United States v. Lynch* (7 Alaska 568 ("Tlingit Tribe")); *United States v. Berrigan* (2 Alaska 442 (Athapascan Bands)); *Nagle v. United States* (191 Fed. 141 ("tribal relations"))).

In line with these legislative and judicial precedents, the Interior Department has for many years been concerning itself with the various native tribes of Alaska and has commonly accepted the designation of the various village groups of southeastern Alaska as "bands" or "tribes" (28 L. D. 427 (1899); 50 L. D. 315 (1924)). It is interesting to note that the Commission appointed to investigate Indian affairs in Alaska in 1885 referred to the Tlingit-speaking Indians as comprising "different tribes" of which the Sitkas alone are mentioned by name. The Commission reported, however, the existence in southeastern Alaska of "11 separate and distinct communities," which would correspond to the number of

¹³ Other groups are organized under Territorial law for municipal functions and under the Wheeler-Howard Act for purely economic activities; e. g., Hydaburg, organized for municipal purposes under Territorial law (Comp. Laws, 1933, ch. 44), has a voluntary cooperative association for economic activities under the Wheeler-Howard Act, the Hydaburg Cooperative Association (constitution ratified, April 14, 1938). The same is true of Klawock, with its Klawock Cooperative Association (October 4, 1938).

¹⁴ Many of the native villages in southeastern Alaska, as in other parts of the Territory, contain no, or practically no, non-Indian inhabitants, a situation which is scarcely paralleled in the United States except in the pueblos of New Mexico and Arizona. An Indian Office report of 1937 analyzing action to be taken under the act of May 1936, contains the following recommendation:

"* * * That the villages of Metlakatla, Saxman, Hydaburg, Kasaan, Klawock, Kake, Angoon, Hoonah, Yakutat, and Klukwan, being exclusively Indian communities, seem entitled to first consideration. It is recommended that these groups be afforded opportunity at an early date to express their wishes in the matter, preferably by voting on the question at an election to be called for that purpose by the Secretary of the Interior."

local groups recognized today by the Interior Department and by the Indians themselves.

It may be said that the forms of tribal organization in Alaska differ somewhat from the forms of tribal organizations which are most prevalent in the States (though not from the forms of tribal organizations utilized by the coast Indians of Washington, who are culturally similar to the Tlingit and Haida Indians). There are, however, Indian village groups in the United States proper, e. g., the New Mexico Pueblos, the California rancherias, and the Creek tribal towns, which have all been considered tribal organizations for purposes of Federal jurisdiction.

It is clear, therefore, that native tribes exist in Alaska. Whether their property rights have been protected is the next question to be determined.

The legislative history of the act of May 17, 1884, indicates that in enacting this legislation Congress wanted to make certain that it was not limiting or qualifying any Indian possessory rights. Congress recognized that its information on the Alaskan natives was inadequate. Section 12 of the 1884 act set up a special commission "to examine into and report upon the condition of the Indians residing in said Territory, what lands, if any, should be reserved for their use, what provision shall be made for their education, what rights by occupation of settlers should be recognized," etc. The Senate report on this bill, in explaining the decision of the committee not to exceed the land laws to Alaska, commented:

"Another reason against present action on this subject is found in the fact that the rights of the Indians to the land, or some necessary part of it, have not yet been the subject of negotiation or inquiry. It would be obviously unjust to throw the whole district open to settlement under our land laws until we are advised what just claim the Indians may have upon the land, or, if such a claim is not allowed, upon the beneficence of the Government."

The bill as reported by the committee referred only to "any lands actually in their use or occupation." The words, "or now claimed by them," were proposed by Senator Plumb with the following explanation:

"I do not want to impose a government on several thousand Indians, for the purpose of assuming to consult the convenience of about 400 white people, which shall do the Indians more hurt than it will do the white people good. Pending an investigation of this question I propose that the Indian shall at least have as many rights after the passage of this bill as he had before" (15 Congressional Record 530-531).

The proposed amendment was accepted by Senator Harrison, who was in charge of the bill, with the statement:

"* * * It was the object of the committee absolutely to save the rights of all occupying Indians in that Territory until the report which is provided for in another section of the bill could be made, when the Secretary of the Interior could ascertain what their claims were and could definitely define any reservations that were necessary to be set apart for their use" (15 Congressional Record 531).

Senator Plumb's amendment was adopted. The discussion evinces the most scrupulous care not to destroy any aboriginal rights and to leave the determination of the extent of such rights to future administrative inquiry.

From the beginning the courts have recognized that the act of 1884 was intended to protect collective possessions. As was said in the case of *Johnson v. Pacific Coast S. S. Co.* (2 Alaska 224 (1904)):

"It is believed that the language of this act does not refer to lands held by Indians in severalty, but as to holdings by them collectively in their villages and such places as were occupied by them; that their methods of life were well understood by the law-making power, and that they were understood to occupy lands in common either in villages where they lived, or for fishing, hunting, and like purposes.

"* * * it is evident to the court that the native Indians who occupied the land in dispute, if they occupied it exclusively and continuously, if they were in the actual undisputed possession thereof at the time the act of 1884 went into effect, were occupying it as a village, where a number had settled, and were there as common occupants, and not as individual claimants to any particular portion of the same. If they occupied the same exclusively as a village or otherwise, their right to the same must be protected, if protected at all, under section 8, above referred to. * * *

The congressional understanding that native possessions in Alaska were held, in at least some cases (not necessarily in all cases), under tribal or communal title is made clear in the Wheeler-Howard Act of June 18, 1934 (48 Stat. 984, 25 U. S. C., sec. 461), section 16 of which (expressly made applicable to Alaska by sec. 13) declares that tribal councils established thereunder shall have power "to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe" (25 U. S. C., sec. 476).

Section 1 of the Wheeler-Howard Act, forbidding allotment in severalty over tribal or community lands, was expressly made applicable to Alaska by the act of May 1, 1936 (secs. 1, 13; 25 U. S. C. secs. 461, 473). This could not have been intended merely as a protection of the tribal title by which lands of the Annette Islands Reserve were held, for Congress had provided in 1891 that these lands should be held in common. The application, therefore, of the prohibition against allotment to Alaska must have been intended to cover other tribal or community landholdings.

Section 2 of the act of May 1, 1936, designates the types of existing reservations in which tribal or community tenure is protected. These are described as "any area of land which has been reserved for the use and occupancy of Indians or Eskimos by section 8 of the act of May 17, 1884 (23 Stat. 26), or by section 14 (referring to 'lands to which the natives of Alaska have prior rights by virtue of actual occupation') or section 15 (establishing the Annette Islands Reserve) of the act of March 3, 1891 (26 Stat. 1101), or which has been heretofore reserved under any Executive order and placed under the jurisdiction of the Department of the Interior or any bureau thereof, * * *." This section declares that by section 8 of the act of May 17, 1884, lands were "reserved for the use and occupancy of the Indians or Eskimos" in the same sense in which lands were reserved under section 15 of the act of March 3, 1891, for the use of the Metlakatla Indians or in which other tracts throughout Alaska were reserved by Executive order for the benefit of various native groups. Congress thus implemented, by the act of May 1, 1936, the protection which it first promised to the natives of Alaska in the act of May 17, 1884. The reference in the House committee report to section 2 said:

"This provision in reality carries out the promise of this Government contained in its act approved on May 17, 1884 (23 Stat. 26) * * *."

The Interior Department administration of public-land laws has not ignored tribal or community possession. Many of the native possessions which have figured in administrative determinations holding that given lands are not available for homesteading or other forms of public disposition involve sources of domestic water, cemeteries, clan houses, and other native possessions which cannot be ascribed to individual ownership. Thus, for example, the departmental decision reported in 23 L. D. 335 (1896) deals with the water supply of a village of Kanuleck Indians "which in contemplation of law is actually occupied by said natives." A somewhat similar decision is reported in 26 L. D. 517 (1898), upholding native possessory rights in "land upon which is located the fresh-water supply of a native Alaskan village."

Departmental recognition of native communal forms of landholding is found in the practice of establishing reservations for Indian villages and communities. Notwithstanding the widespread impression that the Annette Islands Reservation was the only Indian reservation in Alaska prior to the act of May 1, 1936, the fact is that a considerable number of such reservations had been established by Executive order land prior to 1936. The existence of these reservations is recognized, and native rights in them are protected by the Wheeler-Howard Act and its Alaska amendments. Typical of such reservations is the so-called Moquawkie Reservation on the shores of Cook Inlet. The departmental decision reported in 49 L. D. 592 (1923) indicates that the lands and waters of such a reservation are held for the benefit of an entire Indian community. The leasing of lands and waters included within this reservation was upheld by Solicitor Edwards on the basis of the Supreme Court decision in the Alaska Pacific Fisheries case and the similarity of circumstances leading to the establishment of the Annette Islands Reservation and the Moquawkie Reservation.

Other forms of departmental action recognizing the possessory rights of native communities include the establishment of boat landing places for such com-

munities,¹⁵ the establishment of seven reservations under the act of May 1, 1936, and the approval of constitutional provisions adopted by dozens of native communities in Alaska recognizing tribal possessory rights and providing for the management of tribal lands and waters by the appropriate tribal authorities.

A survey of the legislative judicial and administrative materials bearing upon the mode of native landholding in Alaska thus compels the view that tribal or community landholdings has been recognized as a fact and given legal protection, wherever its factual existence was shown, under a series of statutes beginning in 1884 and running down to 1936, which recognize the existence and validity of tribal possessory claims. Where such community claims are established, the question of who is entitled to participate therein and the measure of such participation are questions to be decided, at least in the first instance, by the communities themselves (Cohen, *Handbook of Federal Indian Law*, chs. 7, 9).

3. THE QUESTION OF EXTINGUISHMENT

The question which has presented the greatest difficulty in these cases is the question of how far, if at all, once valid possessory rights of the petitioners have been extinguished by abandonment or other forms of voluntary relinquishment or by acts of third parties or operation of law. Petitioners have vigorously contended that all of their aboriginal holdings have remained in their possession and that interferences with such possession have been in the nature of temporary trespasses. Protestants, on the other hand, have argued that any rights which the petitioners ever had in the areas claimed have been totally extinguished. Neither of these extreme positions is sustained by the evidence. The presiding officer found continued occupancy of towns, villages, streams, gardens, trapping grounds, forest areas for timber products and other areas, but he also found that there had been an extensive abandonment of areas once held in exclusive aboriginal possession. Public records showing the extent of non-Indian settlement, mining, fishing, and other activities within the areas in question, available in this Department, make it possible to draw more precisely the boundaries within which aboriginal possession has been maintained without outside interference down to the present day. The determination of these boundaries is set forth in findings 10, 12, and 13 above. It would unduly prolong this opinion to comment on the evidence leading to these findings. Suffice it to say that within the areas claimed by petitioners in these proceedings three radically different situations exist:

1. In certain areas there have been extensive non-Indian developments in mining and fishing without substantial Indian protest or interference. As to these areas it must be held that any Indian right which once existed has been extinguished. The question of the manner of extinguishment and the extent to which such extinguishment was voluntary or forced are questions which are properly for the consideration of the Court of Claims in the litigation authorized by the Tlingit and Haida Claims Act of 1935, as amended.

2. There are other areas, particularly those connected with the petitioner villages where no non-Indian settlements are found, where the entire permanent population, apart from a handful of Government employees and traders, is an aboriginal population which has continued to make use of the resources of the area which it exclusively occupies. As to these areas, the only conclusion consistent with the evidence is the conclusion that exclusive aboriginal occupancy has continued to the present day.

3. The evidence indicates certain areas of an intermediate character where aboriginal utilization has dwindled and the aboriginal claim of a right to exclude third parties has not been heard for many years, where a moderate amount of non-Indian commercial activity has occurred, and where Indian use has been restricted to seasonal activities, such as hunting, fishing, and the gathering of wild foods. As to such areas it is believed that justice and common sense require a distinction between the claim of exclusive occupancy, which has clearly been extinguished, and the claim of a nonexclusive usufructuary right which has been continuously maintained, which is entitled to respect, which is in fact protected by existing laws and regulations governing fishing and hunt-

¹⁵ See 50 L. D. 315 (1924).

ing.¹⁶ and which can continue to be protected without interfering with the settlement of Alaska. Again, it is unnecessary for this Department to foreclose the question to be presented to the Court of Claims whether the curtailment of what was once a complete and exclusive Indian right was accomplished through voluntary action of the Indians or through duress or a failure of the United States to exercise powers and obligations of guardianship in protecting the territory of its wards.

Apart from the foregoing factual issues, the legal argument has been advanced that as a matter of law all Indian possessory rights in Alaska have been extinguished. The statutes and the authorities do not support this extreme position.

It has been argued that the Tlingit-Haida Claims Act of 1935 is evidence of such extinguishment. However, the act deals both with rights which have been extinguished and those that have been interfered with but not extinguished. Section 2 of the act specifically refers to both extinguishment and interference ("for the failure or refusal of the United States to protect their interests in the lands or other tribal or community property in Alaska, and for loss of use of the same"). In fact, the Department had objected and the Congress had refused to pass earlier drafts of legislation which failed to cover Indian claims respecting unextinguished possessory rights. The Interior Department favored and the Congress enacted legislation which allows damages not only for Government extinguishment of possessory rights but as well for the failure of the Government to protect from private invasion possessory rights that never have been extinguished.

The elementary distinction between violation of rights and extinguishment of rights is set forth at page 26 of Solicitor's opinion M. 31634: "Thus while pre-existing Indian proprietary interests have been violated they have not thereby been permanently extinguished."

The argument that native rights were extinguished by the Russians rests again on a confusion between termination of rights and interference with rights. There was a certain amount of interference with Indian fishing during the period of Russian sovereignty against which the Indians continuously protested. That interference was by a Government agency, not by a private citizen. Furthermore, the extent of Russian fishing apparently was not great. The Russian-American Co. never had "exclusive commercial fishing privileges." At most it asserted exclusive control of trade. This assertion, however, was mostly a legal fiction. The natives continued to trade with the "Boston men," as the Americans of the Yankee Clipper era were called, and, although the Russian Government in 1821 assumed to prohibit such trade, this prohibition was vigorously protested by the United States and was withdrawn by 1824 (Packing Industry Brief, pp. 94-95).

Much legal learning has been devoted to establishing the proposition that Alaskan natives had no rights against the Russian Crown. This, if true, does not necessarily distinguish their position from that of other subjects of the Czar. Property rights exist when the Government protects the possession of an individual or group of individuals against interference by other private persons—whether or not it itself refrains from such interference. None of the evidence produced by the protestants on this point indicates that there was any extensive private interference with, or usurpation of, native possessions in Alaska.

¹⁶ Natives have been granted the following special privileges:

1. They may take salmon by any means (including nets or traps in the streams) at any time for food or for use as dog food (43 Stat. 466, 48 U. S. C., sec. 234).

2. They may take animals, birds, and game fish at any time and in any manner when they are in need of food and other sufficient food is not available. They may sell in Alaska the hides of the animals so taken (57 Stat. 306, sec. 9, 48 U. S. C., sec. 198).

3. They may take the following migratory nongame birds and their eggs at all seasons for food and clothing: Auks, auklets, gullmots, murre, and puffins, but the birds and eggs may not be sold (39 Stat. 1702, art. II, clause 3).

4. They may take fur seals, whales, and sea otter from canoes or undecked boats in the North Pacific Ocean, including the Bering Sea. Such canoes and other craft may be propelled only by paddles, oars, or sails, and in taking fur seals and otter the craft may not be transported by or used in connection with other vessels, or manned by more than five persons each. They may not use firearms in such sealing, whaling, or sea otter hunting or be under contract to deliver products thereof to any other person. They may do whatever they like with the skins after they have been officially marked and certified (58 Stat. 101, 16 U. S. C., sec. 659c; 49 Stat. 1248, 16 U. S. C., sec. 913).

5. They are not required to obtain a license to deal in furs or to engage in hunting, fishing, or trapping (57 Stat. 306, 48 U. S. C., sec. 199).

No statute has been enacted since the purchase of Alaska which could be interpreted as being a general extinguishment of aboriginal titles in that Territory. The fact that certain statutes were adopted for other parts of the United States but not for Alaska cannot throw much light on the nature of the rights of Alaskan natives. Arguments from what Congress failed to do are not of great value. They are particularly worthless in the case of Alaska where, as protestants recognize, Federal control was long marked by "almost total governmental neglect of the region, and equal forgetfulness of both the natives and of the whites who drifted into the Territory." (Packing Industry Brief, p. 141.) The argument that aboriginal possessory rights were wiped out when Congress failed to extend the Indian Trade and Intercourse Acts to Alaska (where the Federal Government had no personnel that could enforce such laws) is such an argument. And whether Alaska was "Indian country" in the technical sense has little bearing on the issue in the present proceeding. The issue is not whether Alaska was "Indian country" for various jurisdictional purposes, but whether Indian possessory rights were safeguarded. The record shows a series of acts safeguarding such Indian possessory rights.¹⁷ The effect of these acts was to recognize, not to extinguish, whatever possessory rights the natives had in any particular area.

Within those areas where there has been a partial abandonment but where rights of hunting, fishing, gathering natural resources, and trapping have been retained, the natives may continue these activities in common with all other citizens in the areas aboriginally claimed (*Tulee v. State of Washington*, 315 U. S. 681 (1941); *United States v. Winans*, 198 U. S. 371 (1905)). These rights are subject to reasonable conservation regulations and to the public right of navigation.

4. RIGHTS IN OCEAN WATERS AND SUBMERGED LANDS

The claim of the Indian petitioners to exclusive possession of ocean waters within 3,000 feet of the shore is, from the standpoint of economics, the most valuable part of the Indian claim and it is certainly the part which has caused the largest amount of public controversy in these hearings. The presiding officer has rejected this claim, and this decision is here affirmed. The weakness of the Indian case lies in the fact that the very Indians who testified in support of an asserted exclusive ownership of ocean waters, admitted that they had used the ocean waters of neighboring tribes without asking anybody's consent. It may be that there was an aboriginal exclusive ownership of ocean water but, if so, such exclusive ownership has been extinguished for many years. The presiding officer has quite properly left to the Court of Claims the question of whether such exclusive ownership of ocean waters existed in aboriginal times, and, if it did, whether the extinguishment of such right occurred under American sovereignty and under such circumstances that the United States may properly be held liable for the loss suffered by the natives.

The affirmation of the factual finding of the presiding officer that the petitioners no longer have aboriginal rights in open ocean waters makes it unnecessary to discuss the various legal aspects of the problem of Indian rights in submerged lands, except to the extent that their rights to tidelands and streams have been herein recognized. Various Federal cases support the rule that where the language of the authorizing statute contains no express mention of submerged lands, but refers in general terms to "areas" or "lands," the question of whether an Indian reservation includes tidelands or the beds of rivers is one that must be answered in the light of all the circumstances of the case and particularly in the light of the habits of life of the Indian beneficiaries (*Donnelly v. United States*, 228 U. S. 243 (1913); *Alaska Pacific Fisheries v. United States*, 248 U. S. 78 (1918); *United States v. Romaine*, 255 Fed. 253 (C. C. A. 9th, 1919); *Heckman v.*

¹⁷ For example, act of May 17, 1884 (23 Stat. 24), providing that "the Indians shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them"; act of March 3, 1891 (26 Stat. 1095), referring to "lands to which the natives of Alaska have prior rights by virtue of actual occupation"; act of May 14, 1898 (30 Stat. 409, 413), reserving for the natives of Alaska "suitable tracts of land along the water front of any stream, inlet, bay, or seashore for landing places for canoes and other craft used by such natives"; act of June 6, 1900 (31 Stat. 321, 330), affirming that "the Indians shall not be disturbed in the possession of any lands now actually in their use or occupation"; act of May 25, 1926 (44 Stat. 629, 630), protecting "nonmineral public lands in Alaska claimed and occupied by Indians or Eskimos of full or mixed blood, natives of Alaska, as a town or village."

Sutter, 119 Fed. 83 (C. C. A. 9th, 1902); *United States v. Stotts*, 49 F. (2d) 619 (D. C. W. D. Wash, 1930); *United States v. Sturgeon*, 27 Fed. Cas. No. 16,413 (1879)).

This is only an application of the common-sense rule that ambiguous statutes are to be interpreted in the light of the circumstances of the groups for whose protection they were enacted. This rule concededly has no application to public grants of land for merely private use, a subject with which we are not here concerned. It does apply in all the cases involving public reservations for Indian use. This common-sense rule has been applied even where the reservations effected a limitation of prior public rights, as for example in the Alaska Pacific Fisheries (Annette Islands) case, supra. In that case the court stated the rule in the following terms:

"* * * * The reservation was not in the nature of a private grant, but simply a setting apart, 'until otherwise provided by law,' of designated public property for a recognized public purpose—that of safeguarding and advancing a dependent Indian people dwelling within the United States" (p. 88).

It is certainly applicable in cases where we are considering the more limited question of whether an area claimed from time immemorial by an Indian group should continue to be held for the use of that group, and where, as the Supreme Court noted in the *Winans* case and *Walapai* case,¹⁸ we look to the statutes not for the creation of Indian rights but only for evidence as to the destruction or continued existence of such rights.

Analysis of the legislative history of section 8 of the act of May 17, 1884, confirms the conclusion that this act was intended to protect Indian possessions wherever they were—in submerged lands as well as in uplands, if in fact Indian possessions and claims extended to submerged lands, which fact Congress authorized this Department to determine. The Senate report on the bill emphasized the desire of Congress to respect Indian rights whatever they may be, and the recognition that such rights had "not yet been the subject of negotiation or inquiry." The intention of the committee sponsoring the measure was "to save from all possible invasion the rights of the Indian residents of Alaska" until such time as "the Secretary of the Interior could ascertain what their claims were." Only now, 60 years after enactment of the measure, is the Department of the Interior attempting to "ascertain what their claims were."

The evidence adduced at these hearings makes it perfectly clear that the very heart of the claims of these Indians was their beaches. At the edge of the beaches they built their homes, their great totem poles, their forts and smoke-houses. There they stored their boats and laid out the cemeteries for their dead. Between the line of high tide and low tide the receding sea left its produce of shellfish, seaweed, herring eggs, and other staples of the Indian diet, and created level and hard-surfaced highways, the only natural highways in southeastern Alaska. There the returning tides brought schools of fish that could be caught by wading men with nets and gaffs or trapped in Indian fashion with barriers that stranded the fish as the tide receded. At the edge of the beach, where occasional high tides thinned the density of the great evergreen forests, lay the clearings that offered greatest returns to berry pickers and to trappers of those predatory animals that, like man, found their chief source of food on the beach. Apart from the beaches, the salmon streams and the bays and inlets at the mouths of these streams were the areas in which the economic existence and property claims of these Indians were centered. The beaches and streams "were not much less necessary to the existence of the Indians than the atmosphere they breathed" (*United States v. Winans*, 198 U. S. 371, 381). In effect they lived in an amphibious culture. To exclude their beaches and their streams from the area in which their possessory rights are recognized would be to ignore the entire history and life of these people, and to ignore the policy consistently followed by the Congress of safeguarding the right of the Indians to fish for their own subsistence in streams and bays which are closed to other fishermen.¹⁹ The Court in the Alaska Pacific Fisheries case recognized the importance of these considerations when it said:

"* * * * The Indians could not sustain themselves from the use of the upland alone. The use of the adjacent fishing grounds was equally essential. Without this the colony could not prosper in that location * * *" (at p. 89).

¹⁸ *United States v. Santa Fe R. R.* (314 U. S. 339 (1941)).

¹⁹ Act of June 14, 1906 (34 Stat. 264); act of June 25, 1938 (52 Stat. 1174); and see statutes cited in Cohen, Handbook of Federal Indian Law, 407-409.

The justice of the views thus expressed by the Supreme Court concerning the Metlakatla colony and the wisdom of the Congress in setting aside for the Metlakatla natives in 1891 approximately 85,000 acres of land are amply evidenced by the recent history of these people. Starting as penniless immigrants, without Government loans or subsidies, they have built, on the uninhabited island reserved to them by act of Congress, one of the model communities of the Western Hemisphere. This municipality operates, profitably, a power plant, sawmill, fish traps, and one of the most modern canneries in Alaska. A recent report of this Department commented:

"The town of Metlakatla has made a net profit of approximately \$400,000 in the last 5 years. * * *

* * * * *
 " * * * Practically every family owns a comfortable home. More than one-fourth of these homes contain pianos or organs. Standards of health, education, and public morality are probably not surpassed by any other community in the United States" (the Problem of Alaskan Development, 1940, pp. 44-45).

There is no reason why our own native Indians of Alaska should not do as well as these Metlakatlan immigrants from British Columbia, once they have some assurance that the land on which they live belongs to them and that the developments and improvements which they undertake upon that land will accrue to the benefit of themselves and their posterity. They will not be degraded nor endanger their citizenship thereby. Improvement in their economic status will help them and the whole Territory of Alaska.

A careful study of the cases and statutes confirms the basic conclusions of Solicitor's opinion M. 31634; that submerged lands in Alaska are susceptible to such claims of aboriginal possession as were recognized by the act of May 17, 1884, and by subsequent legislation of the same tenor; that such rights, whatever they may be, have not been destroyed by the course of congressional legislation since 1884; and that whether such rights have been abandoned or otherwise extinguished or whether they still exist as valid rights today is entirely a question of fact to be decided on the available evidence in each particular case.

CONCLUSION

It is the duty of this Department to respect existing rights in disposing of the Federal public domain. This is true whether the public domain is land or water or a mixture of both, and whether the existing rights were established under Spanish, Mexican, Hawaiian, Danish, Choctaw, or Tlingit law. It makes no difference whether the evidence of such rights is found in papers sealed and notarized or in custom and the fact of possession, which is older than seals and notaries. Having attempted to discover the exact facts in these cases, the Department will govern its future actions accordingly. It will recognize that the natives involved in these proceedings are entitled to the exclusive possession of approximately 190 acres per capita of land on which they live and which has remained in their possession since before our sovereignty attached. It will continue to recognize that these natives have certain rights of user in other public lands, protected but limited by our conservation laws. It will take the position that all public lands in which Indian exclusive possession has been extinguished are henceforth open to settlement and disposal, and that whatever loss has been suffered by these Indians through such extinguishment is to be remedied by appropriate action in the Court of Claims. Such action has been authorized by a liberal Congress solicitous of our national honor and of our obligations to a brave and industrious people who are making a resolute endeavor to meet the problems of the white man's civilization. The Indians of Alaska have every reason to expect that the Congress and the Department will be equally solicitous to respect their rights in the land they have thus far retained for their own use, and that if the public interest should now or hereafter require that any of these retained lands be withdrawn from Indian ownership this will be done only under appropriate legislation which assures adequate compensation for that which is taken from them in the interests of a wider public.

HAROLD L. ICKES,
Secretary of the Interior.

SUMMARY

The findings of fact and conclusions of law of the order of July 27, 1945, concerning the claims of the natives of Hydaburg, Klawock, and Kake, Alaska, are modified in the light of additional evidence presented at the rehearing showing that a number of small tracts amounting to not more than 800 acres in the aggregate, have continued to be used and claimed exclusively by the native groups and that native rights have been extinguished in areas amounting in the aggregate to 1,120 acres used for cannery facilities, with the acquiescence of the natives.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., January 11, 1946.

CLAIMS OF THE NATIVES OF HYDABURG, KLAWOCK, AND KAKE, ALASKA

ORDER ON REHEARING

Petitions for the rehearing upon this Department's order of July 27, 1945 (10 F. R. 9545), concerning the claims of the natives of Hydaburg, Klawock, and Kake, Alaska, were filed in accordance with section 15 of the rules of practice governing hearings upon the claims of natives of Alaska (9 F. R. 10928). The rehearing was granted on September 11, 1945 (10 F. R. 11817). The parties have filed with this Department and served upon each other affidavits and arguments within the period specified in the rules of practice, as amended. Careful consideration having been given to the materials presented, the findings of fact and conclusions of law of the order of July 27 are hereby affirmed with the following modifications:

(1) Finding No. 10 is modified by adding after the first paragraph thereof the following:

"The natives of Hydaburg have also continued from May 17, 1884, to the present day exclusively to use and occupy the following unpatented sites, not exceeding in the aggregate 160 acres, the exact boundaries of each site to be determined at the time of survey by the General Land Office:

"Cemetery on island outside of Hunter Bay, Prince of Wales Island.

"Cemetery on center island between Howkan and Dall Island.

"Cemetery on east side of Sukkwan Narrows, Sukkwan Island.

"Cemetery on south end of Jackson Island, south of Sukkwan Island.

"Cemetery at Klinkwan, Prince of Wales Island.

"Cemetery at Howkan, Long Island.

"Cemetery at Cape Muzon, Dall Island."

Finding No. 10 is further modified by adding after the second paragraph thereof the following:

"The natives of Klawock have also since May 17, 1884, continuously and exclusively used and occupied the following unpatented sites, not exceeding in the aggregate 640 acres, the exact boundaries of each site to be determined at the time of survey by the General Land Office:

"Homes, smokehouses, and gardens on south side of Tuxekan Island.

"Homes, smokehouses, and cemetery on west shore, across from Karheen on Tuxekan Island.

"Gardens, smokehouse, and home on north end of Heceta Island.

"Homes and gardens, not located on cannery site, at Warm Chuck, Heceta Island.

"Fort at south end of Heceta Island.

"Homes on Noyes Island and the islands between Noyes Island and Heceta Island.

"Homes at Hole-in-the-Wall, Prince of Wales Island, which are not used in common with nonnatives.

"Home on San Fernando Island, adjacent to Portillo Channel.

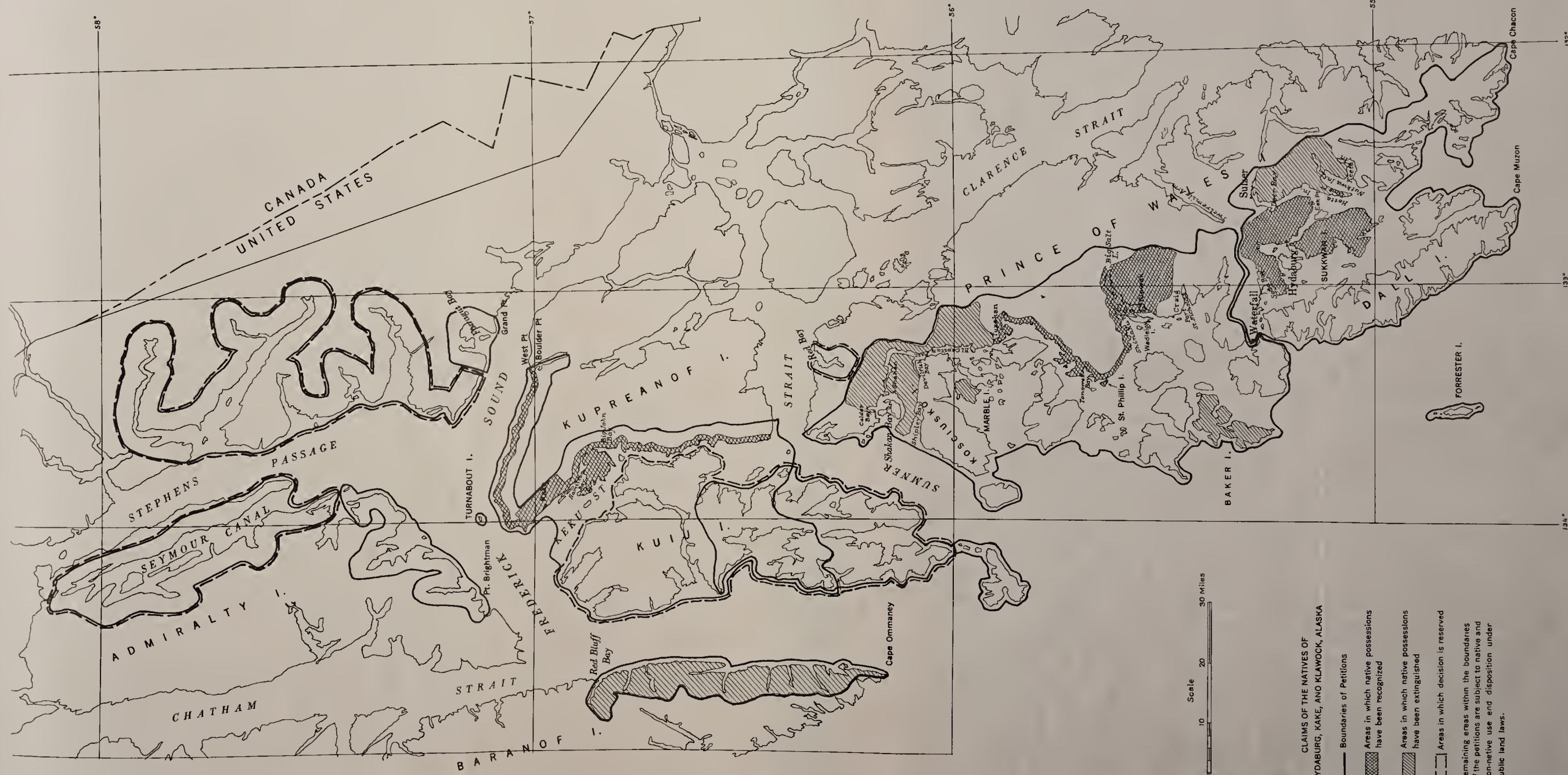
"House and gardens south of Edna Bay on Kosciusko Island.

"Homes and gardens on Fish Egg Island, west of Craig.

"Home and garden at Deweyville, Prince of Wales Island.

"Homes and gardens on islands between Tokeon and Tuxekan Islands.

"Cemetery at entrance to Dry Pass at Shakan, Prince of Wales Island.



CLAIMS OF THE NATIVES OF
HYDABURG, KAKE, AND Klawock, ALASKA

- Boundaries of Petitions
- ▨ Areas in which native possessions have been recognized
- ▧ Areas in which native possessions have been extinguished
- Areas in which decision is reserved

Remaining areas within the boundaries of the petitions are subject to native and non-native use and disposition under public land laws.

"Houses at Cape Pole on the southern end of Kosciusko Island,

"Camps and gardens near Steamboat Bay on Noyes Island.

"Houses, smokehouses, and gardens at north end of Edna Bay on Tokeen Island.

"House at Camp Taylor, about 6 miles northwest of Deweyville, Prince of Wales Island.

"Smokehouse at head of Tokeen Bay on Kosciusko Island.

"Smokehouse on southeast side of Marble Island.

"Smokehouses on islands between Deweyville and Tuxekan.

"Smokehouses, cemetery, and gardens on west side of Wadleigh Island across from Klawock.

"Smokehouse on west point of Barrier Islands.

"Smokehouses on west side of bay across from Waterfall cannery on Suemez Island."

Finding No. 10 is further modified by adding after "excepting from the foregoing any patented lands" in the description of the area continuously and exclusively occupied by the natives of Kake the following:

"And the cannery facilities connected with the P. E. Harris Cannery, United States Survey No. 936, adjacent to the town of Kake."

(2) Finding No. 12 is modified by adding after the description of the area which has been effectually removed from the occupancy and possession of the natives of Hydaburg the following, each not to exceed 160 acres, the boundaries to be determined at the time of survey by the General Land Office:

"Cannery facilities connected with Hunters Bay cannery, United States Survey No. 310, on the southwest coast of Prince of Wales Island.

"Cannery facilities and pipe line connected with Rose Inlet cannery, United States Survey No. 1982, on Dall Island.

"Cannery facilities and pipe line connected with Waterfall cannery, United States Survey No. 1561, on Ulloa Channel, west coast of Prince of Wales Island."

Finding No. 12 is modified further by adding after the description of the areas which have been effectually removed from the occupancy and possession of the natives of Klawock the following, each not to exceed 160 acres, the boundaries to be determined at the time of survey by the General Land Office:

"Cannery facilities connected with Shakan cannery, United States Survey No. 215 on the north side of Kosciusko Island.

"Cannery facilities and pipe line connected with Craig cannery, United States Survey No. 1429-A, on Prince of Wales Island.

"Cannery facilities and pipe line connected with Noyes Island Cannery, on Steamboat Bay, Noyes Island."

(3) A total of 800 acres is added to the areas in which the claims of the three native villages are recognized, and a total of 1,120 acres is subtracted from those areas, leaving a net deduction of 320 acres.

OPINION

The arguments presented by the protestants concerning the jurisdiction of this Department, the use of departmental records, and the tribal status of the petitioners are rejected since they have been discussed in the order of July 27 and no new evidence has been presented which would warrant a modification thereof.

Protestants argue vigorously against the use of records which they say neither they nor the presiding officer had any opportunity to examine. The fact is that the public records of this Department showing the extent of nonnative settlement, mining, fishing, and other activities within the areas claimed by petitioners are, and have always been, available for inspection by all interested parties. Protestants' counsel was invited to scrutinize them and they were discussed with the officer presiding at the hearings before the order was issued. Furthermore the only effect of these records was to disprove or qualify the petitioners' record evidence tending to showing aboriginal occupancy in a broader area than that designated in the July order. The only effect of failing to notice facts of public record which are officially before the Department would thus be to prejudice the rights of protestants and other non-Indians. This the Department will not do.

Petitioners' evidence of continued hunting and fishing in the claimed areas in which their exclusive aboriginal rights were found to have been extinguished does not warrant any modification of finding 10 of the order of July 27. The affidavits of petitioners submitted in this rehearing to support their claim of continued use of occupancy of the areas claimed by them merely enumerate the nonexclusive uses which have been recognized in findings 13 and 14 and in the discussion of the question of extinguishment, pages 21-24. Undoubtedly the natives hunt and fish and gather food in the manner described by them in those affidavits. But no new evidence of the exclusive right to the seasonal use of the areas mentioned has been introduced. It follows, therefore, that while the petitioners do have the right to carry on those activities in the areas covered by finding 13, they are entitled to exercise those rights only in common with the other citizens. How the original rights of petitioners in those areas were qualified or extinguished is a question to be determined by the Court of Claims pursuant to the Tlingit and Haida Jurisdictional Act of 1935 (49 Stat. 388), as amended by the acts of June 5, 1942 (56 Stat. 523), and June 4, 1945 (Public Law 70, 79th Cong., 1st sess.). The new evidence which has been presented concerning the areas claimed by petitioners on which decision has been reserved in accordance with finding 9 of the order of July 27 will not be considered until a decision on those areas is reached. Such a decision will not be reached until other native communities with possible overlapping claims have been heard.

The order issued by this Department on July 27, 1945, concerning the claims of the natives of Hydaburg, Klawock, and Kake, Alaska, recognized the rights of the native villages to approximately 8 percent of the land areas claimed. Additional material presented on the rehearing indicates that approximately 800 acres should be added to those areas in order to include small tracts which have continued to be used exclusively, chiefly for gardens, smokehouses, homes and cemeteries and calls for the exclusion of approximately the same acreage used for cannery facilities. These totals may be reduced when the boundaries of the tracts are determined at the time of survey by the General Land Office.

It has been pointed out in the opinion accompanying the order of July 27 that the question of the extent to which the aboriginal rights of the petitioners were extinguished is a question of fact. The new evidence presented by protestants concerning the use of tracts in connection with the operation and maintenance of canneries on unpatented lands clearly shows that those areas were used with the consent of the natives. There is little, if any, testimony of resistance to the advent of the canneries, which, after all, meant additional work and income for the local native population. Of course, the extinguishment of native claims to these areas does not mean that vested rights against the United States have been acquired by the owners of the canneries.

It also appears that from the early years of United States sovereignty in Alaska, the petitioners have not prevented seine fishing or trolling by natives of other tribes and bands or by nonnatives in the areas which they claimed as their own, even when large-scale commercial projects were undertaken. This meant employment for them without material depletion of their main source of food. I assume that the natives will continue to permit reasonable temporary use by nonnative seiners of the beaches within the areas in which their continued use and occupancy rights have been recognized, where that use does not interfere with their own. On this assumption it is unnecessary to consider whether a public easement of access has been created by long acquiescence.

Protestants contend that 11 trap leads have been anchored on petitioners' land every summer since 1938 (and some of these for longer periods, reaching in one case back to 1922), and this contention is not denied by petitioners. If this use of petitioners' lands had been made with their acquiescence, it would be clear that their own exclusive possession has been pro tanto diminished. However, the testimony at the hearings clearly indicates that the natives of these villages have continuously resented the interference of the traps and have used all the means available to them to have the traps removed. When the first non-Indian traps, barriers at the mouths of streams, were introduced, they tried, sometimes with success, personally to deal with these infringements. "If you do not take this away from this entrance both you and I are going to leave this earth" was the way one Klawock Indian put his protest (record, p. 728; and see also examples cited in the testimony of some of the witnesses at the hearings, pp. 609-10; 1170-1175; 1180-1184). After the floating traps were introduced, besides continuing to

protest against particular trap interferences in the areas which they claimed (see record, pp. 400-404; 728-729; 765-766; 878-880; 1137), they began to use more civilized means of voicing their grievance. The natives of these villages joined other native groups in southeastern Alaska in their efforts to have the traps abolished generally. The Alaska Native Brotherhood, organized in 1913, has always had as one of its main objectives the reduction or abolishment of traps. Whenever legislation dealing with the subject has been considered in either the Federal or Territorial Legislatures, the natives have supported the attempts to remove the traps. The debate on the White Act of 1924 shows vigorous protests against traps by the Kake Camp, the Hoonah Camp, the Juneau Camp, and the native residents and fishermen of Yakutat, as well as by the territorial legislature and Dan A. Sutherland, the Delegate from Alaska at that time, who referred to the complete endorsement of the native population of his amendment for the purpose of abolishing traps (65 Congressional Record 5965). One of the main reasons Delegate Dimond introduced in 1935, and each session thereafter, a bill to abolish traps, was to alleviate "the deplorable and pitiful economic state of the natives." The Klawock Camp, the Kake Camp, and the territorial legislature were among its supporters (hearings before the Committee on Merchant Marine and Fisheries on H. R. 4254 and H. R. 8213, pp. 26, 82-86, 98). There is no room here for a finding of acquiescence by petitioners in the use of their lands for the anchoring of non-Indian traps. Solicitor's Opinion M. 31634 (57 I. D. 461) emphasizes that the allowance of non-Indian fishing in areas subject to native possessory rights does not create superior rights in third parties. (Also see *United States v. Santa Fe Pacific R. R. Co.*, 314 U. S. 339.) Use of lands in which natives have prior possessory rights by nonnative does not oust the natives of their rights (*Cramer v. United States*, 261 U. S. 219; *Alcea Band of Tillamooks v. United States*, 58 F. Supp. 934, 964; 3 L. D. 371; 6 L. D. 341; 30 L. D. 125). Nor does the ejection of Indians under force or threat of force from premises in which they rightfully claim possession show an abandonment (*Fort Berthold Indians v. United States*, 71 Ct. Cls. 308, 334).

The trap owners themselves recognize that a license from the War Department to use a particular area for a trap site does not grant a permanent interest. The permits issued by the Forestry Service of the Department of Agriculture for trap tail-hold areas are identical in this respect, and so specifically provide. Therefore there is no reason to modify the findings of the order of July 27 with respect to the beach and upland areas used by nonnatives for tail-holds and leads. The same ruling applies to beach areas used for storage of trap frames, anchors, and other trap equipment and for cabin sites used in connection with traps. All such areas may, of course, be utilized by nonnatives, but only with the consent of the owners of the soil. This is the rule that applies throughout the United States to the use of land belonging to another. There is no reason to apply a different rule to the possessions of Alaskan natives.

HAROLD L. ICKES,
Secretary of the Interior.

Mr. CURRY. As I stated, I want merely to outline the statement that I intended to submit in writing so questions might be asked.

First, I would contend that this is an exercise of the power of eminent domain. That does not appear from the bill itself, and it did not appear except upon questioning by Mr. Poage and others, and then the Assistant Attorney General admitted that it is an exercise of the power of eminent domain.

Mr. POAGE. Would it not be true if the United States Government simply wanted to proceed, as the chairman has suggested here, by contracting with the pulp interests for 90 percent of the land, they could go ahead and do so today, without any legislation whatever? Of course, I realize if there were no legislation and these people felt that they could substantiate their claim to the 90 percent, they could of course come into court and contest the right of the Government to sell it; but there is nothing in the law to keep the Government from going ahead and contracting on the 90 percent of the land now, is there?

MR. CURRY. I think not, Mr. Poage, and I think a comparison here might be made to what I understand was the system used in making grants to the railroads.

The railroads asked for grants of land and they received a grant of all of the public domains specified, including certain Indian-owned areas, but the Indian-owned areas were subject to the provision that those would be granted to the railroads upon obtaining Indian consent. The railroads went out and financed themselves under the supposition that they were going to get it. I think that that supposition can be entertained here because in a period of a few weeks, I think, a settlement could be made if the Government were willing to unbend a bit and give us what they have already found is ours.

THE CHAIRMAN. If you were an attorney representing the pulp interests, would you not be reluctant to advise your client to enter into that sort of contract?

MR. CURRY. I might be reluctant to advise my client to actually build a \$25,000,000 enterprise, to actually build it, but I do not think this enterprise is actually going to be started for quite a while, and I would certainly advise my clients they could spend the money necessary to get counsel and make the surveys, and so forth.

I do not know what the railroads did in those circumstances. I think they just put their money in and went ahead on the assumption that the United States would get it and turn it over to them. I think the United States can get these Indian timber rights and turn them over to the people, the pulp industry. Delegate Bartlett has introduced a bill which simply authorizes that, and that was before the consideration of the Indian Committee the other day. At that time this bill was discussed at some length because it really has to do with the affairs of that committee. It was hard to discuss one without discussing the other.

I think that bill, or the administrative procedure which is available, is an adequate substitute for this condemnation, which for reasons I will state, would not give the pulp companies an adequate title anyway. That was made clear at the last hearing—they would not get an adequate title under this legislation.

The reasons for that are, first of all, as I see it, that this is a direct condemnation for private use. There is not any question of putting this into the national forests for scenic purposes. Nothing is being taken but the trees, and the trees are being turned over directly to a private industry. The rule is unquestioned, that private property cannot be condemned except for public use.

Now, I do not know what kind of title they can expect to get under a bill which expressly provides for taking and immediately turning over to a private company.

Secondly, I think the title would be bad and the bill should be defeated because there is not any provision made, as Mr. Poage and others clearly pointed out—as they say in the textbooks—for the determination and payment of compensation. In fact, that provision is negative because it says the rights of the Indians shall be determined by future legislation. But even taking it out would not be adequate because this Congress, when it takes property, ought to make provision for deposit in advance of the funds necessary to pay

the judgment. It always has to do that except under the Second War Powers Act, and that is strictly a special statutory provision for a special purpose.

So generally I am going to show in my statement that the statute is not only unconstitutional, but also it is contrary to a public policy which has been infused into the Constitution—that is, a respect for private rights, preventing the Government from interfering except under certain limitations which are sufficient to prevent undue interference. I think this business of taking and turning over to a private company has definitely bad effects in this particular case.

I went to these people who were going to operate these mills and they were very agreeable, and I think they would have done very good business directly with the representatives of these communities, but they could not do it. It is my impression, and I have reason for it, that they do not want to antagonize the Forest Service. That, I think, is undue interference.

Mr. ANDRESEN. You do not question the right of the Government to sell timber off Government-owned lands to private persons?

Mr. CURRY. Not at all.

But the power of condemnation, which is an awful power—it is the ultimate power of the Government—should not be used except for public purposes.

Mr. ANDRESEN. The amount of land to be transferred to this company is relatively small. It is for the site of the factory, or the plant that is going to be built, which may take only 5, 10, or 20 acres, whatever is necessary, but you do question the right of the Government to sell timber on the other land because of the undivided interest the natives claim.

Mr. CURRY. I think it is unconstitutional and contrary to very, very important policies of the Government.

Mr. POAGE. This question of undivided interest—the natives do not claim any undivided interest, as I understand it.

Mr. CURRY. It is either the Government's or the Indians'.

Mr. ANDRESEN. You stated to begin with that a certain amount of land had been set off in metes and bounds as being the natives' land.

Mr. CURRY. Yes.

Mr. ANDRESEN. When I interrogated you about the balance of the land I understood you to say the natives claim an undivided interest in the rest of the land, or the ownership of it. Which is right?

Mr. CURRY. Just a few minutes ago I did not give you a complete answer. I think the interest of the Indians in the 90 percent, if the facts support their claim, would be substantially the same as the Secretary has decided they have in the 10 percent. It would not be an undivided interest. The title would be entirely theirs.

Mr. ANDRESEN. They claim title to all of it?

Mr. CURRY. Bowing my head, I would say yes. That is the contention that would be made in any proceeding. It is the same contention that was made in the proceedings before the Department of the Interior, just as any person who files a lawsuit is not liable to underestimate the amount of his claim.

Mr. ANDRESEN. Was not some agreement entered into between the Government through the Department of the Interior and the natives

when this land was set up by metes and bounds as being Indian land, or native land?

Mr. CURRY. That was the only step that was left out. The statute authorized the establishment of, the recognition of, this area as an Indian reservation. That final step was not taken. If that final step had been taken, there would be no question. There would be a record title then.

Mr. ANDRESEN. No agreement was entered into. All the Government did was to pick out the land and say, "Now, this is the Indian reservation."

Mr. CURRY. That is right, and gave assurance to the Indians that would not be disturbed.

Mr. ANDRESEN. When was that done?

Mr. CURRY. The date of that determination was just recently. October 1944, I believe.

Mr. ANDRESEN. As the result of that survey and the setting aside of the land as a reservation, did the Indians take possession of it?

Mr. CURRY. They have consistently claimed possession. There has been a tendency on the part of other bureaus of the Government, the Forest Service, to question that, and I think since that time, although I cannot be sure, the Forest Service has issued leases upon the area which the Secretary of the Interior determined belonged to the Indians.

Mr. ANDRESEN. I feel the issue is very clear now. The natives claim possession and ownership of all the land in the area, and do not particularly recognize this Indian reservation, as such, as being the exclusive properly as respects the rest of the land.

Does that clear that up, Mr. Poage?

Mr. POAGE. I think what you have said is correct, but does not this also follow: As I understand, you think if the Government would validate the action of the Secretary of the Interior, if Congress would put its stamp of approval upon the action of the Secretary of the Interior, as a consideration for that you could get the Indians to give a quit claim deed to the other 90 percent?

Mr. CURRY. Without definite commitment, I think that is true, Mr. Poage. I think that it could be done without legislation.

Mr. POAGE. I know that it could.

Mr. CURRY. With legislation, for instance, under the Bartlett bill, it would be much better that way. We would have congressional recognition.

The CHAIRMAN. I am disturbed about this 10 percent. I understood from what you said awhile ago the matter had been finally adjudicated, and I was under the impression everything had been done to give the Indians undisputed title and possession of this 10 percent.

Now if I understand you correctly in response to a question propounded by Mr. Andressen, you say there is still another step that will have to be taken before that action would be complete. Is that right?

Mr. CURRY. Well, it is a formal step, Mr. Chairman. The Indians have held title to a lot of land in Alaska just as white people have held title to land without having record documents. A large part of the land in Alaska is held pursuant to possessory rights confirmed by this 1884 law. They have no documents.

Now, the Secretary of the Interior has issued his decision that these properties belong to the Indians. The only step that could be taken would be a declaration of reservation as authorized by law. I do not think this is complete as to that, but it is only a formal declaration of right and would amount to a title deed to a property that people owned anyway.

The CHAIRMAN. There must be some reason why that final step has not been taken. What is the reason?

Mr. CURRY. Well, I think that it might be explained in several ways. One is that the people in Alaska, including the Indians, I think, would not want the Indians to be put under the control of the Indian Office. They do not want what you call long-haired Indians. The Indians do not want to be long-haired Indians either. They are very progressive people. They are no different from you and me. I went to a meeting of Indians up there in one of the towns, and I can tell you they taught me a few lessons in parliamentary law that I did not know myself. They are very cultured and high-class people. That is true all over the Territory. None of them want to be long-haired Indians.

Now the term "reservation" in the past in common parlance has always meant and been tied up with "long-haired" and "old-fashioned" Indians, whose affairs were handled for them by the Department of the Interior. The Indians do not want it that way and the people of Alaska do not want it that way, but it is not necessary that a reservation be anything like that at all. It is possible, if the Department of the Interior is willing, to establish a reservation which the Indians control 100 percent, and which the Department of the Interior and the Indian Service have nothing to say about. There are such reservations, where the Department of the Interior has nothing whatever to say about the control of the property.

Now, it may be—and I do not know that I want to say this is true—it may be a feeling of reluctance on the part of the Department to set up a reservation over which they do not have control, or it may be just a feeling they do not want to do something that might be misunderstood. I think that there is no question but that if such an order were entered, and if it were made clear to the Indians that they were going to get some revenue under this new arrangement, and if it were made clear to the people of Alaska that this did not mean that the land was going to be fenced off and kept away from other people of the Territory, there would be no question of its acceptability.

Mr. ANDRESEN. Has any monetary value been placed upon the claims of the Indians?

Mr. CURRY. Mr. Andresen, I remember your curiosity on that point at the last hearing, and that was my next point to be covered.

Mr. Gardner estimated that the value of the land, 10 percent, is \$2,000,000. It is an average of \$170 a head, or something like that. It is 1,500,000 acres.

Mr. ANDRESEN. I understood him to say that the claims would exceed the amount that the Government would realize from its transaction with this company.

Mr. CURRY. I think there is no question.

Mr. ANDRESEN. So, if that were the case, that is one reason why I want to go into the value of the claim, because I do not feel that the

Government should pay out more money than is received from the sale of this timber and also the sale of the land.

Mr. CURRY. Mr. Andresen, in that connection, I would not want to estimate what this might cost the Government in the long run because the people might accuse me of trying to hold up the Government. I tried to figure it out, and assuming Mr. Gardner's estimate of \$2,000,000 as the value of the land, that leaves out the value of the timber, which is 15 times as much, so you have to multiply the figure by 15.

Mr. ANDRESEN. Fifteen times as much if it could be marketable.

Mr. CURRY. Perhaps that condition would exist and perhaps not. You remember Mr. Vanech testified that if you take the timber off a piece of land it means you take the land and you have to pay for the land. Now, if you take part of the timber off a piece of land and indicate you are going to take the balance, you also take the land; so if you took the timber off only a part of the land the Government might obligate itself to pay for the whole area before they ever took the timber, and before they ever had any possibility of recovering by sale of the timber. Then the question whether the Government would ever get anything back would depend upon whether they ever sold the timber, which might not happen.

Mr. ANDRESEN. If they engaged in selective cutting, the timber would grow over again, and inside of 75 or 100 years you would have another stand of timber.

Mr. CURRY. And in 75 or 100 years the money that the Government put out would capitalize also. So it is a net loss at this particular time.

In addition to that, these figures that were used here, the \$2,000,000 figure, first of all would have to be multiplied by 15 to include the trees for which the Government might or might not get compensation back.

Furthermore, we have to bear in mind that this is a bargain price. I do not know—I have been trying to find out what the price of timber is here—but this is excellent wood. It is Sitka spruce, which is used for airplanes. You can walk out here to Georgetown to some of these swanky little shops and buy plates for \$2 and \$3 that are made out of Sitka spruce. They want to make New York Times' out of Sitka spruce, but when the determination came of the actual value of the property, while the Government might be selling it to the pulp people for \$1.50 for 1,000 feet, what it is worth is an entirely different question. I do not want to mention a figure because I do not want to be quoted. It could be tremendous. The same is true of the minerals, and the same is true of the fact that Mr. Gardner's estimates are based upon the assumption that the Interior Department's findings are correct; that it is only 10 percent, but it might be more.

The claim against the Government might be fantastic. However, there is no desire on the part of the Indians to make fantastic claims. We think that the Government ought to follow the policy that it has followed ever since the Northwest ordinance was enacted, saying that the land of the Indians should not be taken away from them without their consent, or in just wars against them. I think that same policy should be enacted here and the claim to the other 90 percent should be taken away with the consent of these people, and I think the consent

is not so hard to get that it ought to be the basis for a reversal of policy at this time.

Mr. ANDRESEN. You have 16,000,000 acres of land involved.

Mr. CURRY. Yes.

Mr. ANDRESEN. If you have virgin timber standing on that land of the type you described, of course, it will run into a figure—I do not suppose that it would compare with the national debt of the country—but it would run into quite a figure.

Mr. CURRY. That is right.

Mr. ANDRESEN. I can agree with you that this matter should be settled before we pile up a lot of claims after the Government has taken the property and sold it for little or nothing.

Mr. CURRY. Of course, on the face of it, this law is not a condemnation law. Reading it you would never know the Government is tying itself up for such a proposition as this.

Mr. ANDRESEN. This bill does this: It gives authority to go ahead and dispose of the timber and the land and to settle the claims afterward.

Mr. CURRY. That is right, and that is where the trees have to come into the picture. You have covered one of my most important points. Thank you very much.

Mr. ANDRESEN. I wish that you would put in a top figure now that you have talked about, of how much the Indians would realize from this if their contention is sustained.

Mr. CURRY. Would not it be all right if I just put in the multipliers and let the Congressmen arrive at the figure?

Mr. ANDRESEN. We do not have any adding machines.

Mr. CURRY. The Alaskan papers might have some harsh things to say about me.

Mr. ANDRESEN. I wish that you would.

Mr. CURRY. Yes.

(The data requested is developed by Mr. Curry in his "Statement of James F. Curry to the House Committee on Agriculture regarding House Joint Resolution 205," which was prepared after the hearing of June 14, 1947, but is included as the opening item of June 14 testimony in accordance with requests and arrangements made at the hearing.)

Mr. CURRY. Now, there are a number of subpoints that I want to try to cover, but I will not try to cover them specifically now because I think the committee has a full grasp of this situation.

My next point after this question of the burden on the taxpayer is the fact that this scheme is really less advantageous to the pulp industry itself because it gives them a title that is not, in my opinion, a valid title. They are going to get themselves into nothing but trouble.

Secondly, the taking of land under these circumstances is bound to stir up local resentment. There is a tremendous amount of resentment in Alaska already against this sort of thing and I know these people do not want to go into a situation like that.

Mr. Foley told me he has worked with Indians all over the country and he likes them and gets along with them, and he does not want to get into a hostile situation. The situation is hostile when land which these people have been told they own is now being taken away from

them and other people are making leases on that very land. That would cause resentment not only perhaps against the Interior Department. These people would feel strongly about it, and that would be an important element in the success of the industry.

Mr. ANDRESEN. We have been led to believe that there is a tremendous demand in Alaska to begin this new industry up there. Newsprint is selling considerably over \$100 a ton, and we get most of it from Canada. Is there a demand for this new industry to be established in Alaska?

Mr. CURRY. I think there is a tremendous demand and I think it is shared fully by the Indians, but they just do not want their rights to be trampled on. They are willing. The basis for my assurance that they would be agreeable to such a settlement as has been suggested is the fact that they want this industry. I do not mean to say that the plan that has been proposed here is necessarily the best thing for Alaska. It might be they are not taking into consideration some other elements of the situation.

For instance, the use of the Sitka spruce. There may be other valuable timbers for low-class purposes like this. That might not be the best thing. That is a matter I would have to take the views of the Government on. Furthermore, the mere fact that the whole principal area of Alaska, where all the industry ought to be, is being put into a forest, it seems to me, is something that ought to be considered.

Mr. ANDRESEN. We started the reindeer industry up there, as you will recollect, which the people were quite enthusiastic about, but you know what happened to it.

Mr. CURRY. I do not know that I do. I remember the story, but I do not remember the exact details.

Mr. ANDRESEN. It was to be a great industry.

Mr. CURRY. They took over a private herd, I think.

Mr. ANDRESEN. But it petered out, and the reindeer were finally returned to the natives.

Mr. CURRY. Without qualifying the enthusiasm of everybody in Alaska for this industry, I might say this industry also represents the difficulty that Alaska has always had which is that they export raw materials and import finished products. This is another raw material proposition. It may mean something like the fish industry; they will bring in a lot of people that will stay for only a few months. That does not mean that it is not a good thing, but there are some qualifications and some plans that ought to be made to be sure that we get all the benefits that we can out of this pulp industry without any of the difficulties that might arise from it. That is 100 percent the attitude.

Mr. ANDRESEN. Of course, we had that same trouble in northern Minnesota where we were shipping out iron ore. What happened there was that the State had placed a royalty tax on iron ore that goes out, and some of the money is returned to the State and the local communities. That is true in the forestry areas where the Government pays a certain amount to the county and the local communities for the sale of lumber in lieu of the taxes. I suppose that some arrangement like that could be worked out in Alaska.

Mr. CURRY. Really, I have not studied the question sufficiently to know. I know that something should be done to prevent this from

becoming, as it starts out to be, another absentee industry. I do not know whether proper plans have been made along those lines or not.

I will show also in my written statement a long series of commitments that have been made to the people of Alaska; that these titles would be recognized. I think this legislation would be a violation of those commitments. I make a point that the titles here to be destroyed by this bill are similar to possessory titles in the States, such as were given to the homesteader. He also has possessory rights. I do not think that this Congress would want to destroy his rights for the benefit of some private industry, at least without his consent. In fact, I think this Congress has expressed itself rather vigorously, for instance, in the case of the Jackson Hole Monument in opposition to the destruction of rights which in that case, I believe, were not strictly rights at all. All these people had were revocable leases, and when they attempted to change the policy of permitting grazing on the monument, I think almost unanimously the Congress objected to it, and the Congress has done everything it could to prevent that sort of thing.

Therefore, the mere fact that these rights are possessory and not reduced to record is no reason for destroying them. They have at least been recognized by Government officials duly authorized.

I think, Mr. Chairman, without too much regard for the logical order, because I have answered questions as they arose, I have covered the outline of the statement that I intended to submit. I have nothing further to say, except to answer any further questions.

The CHAIRMAN. Let me ask you this question: If I understand you correctly, the Indians are very much interested in having some development of their timber resources and in getting this particular pulp industry?

Mr. CURRY. Yes.

The CHAIRMAN. If the passage of this legislation were the only way that could be brought about, what would their views be on the legislation? If this were the only chance to get the industry, would they oppose the legislation?

Mr. CURRY. Mr. Chairman, that is a pretty difficult question to answer. I do not think any of them are convinced, and I am not convinced, and I do not think, Mr. Chairman, you are convinced, that that is true. If that final ultimate proposition had to be submitted to the Indians, I do not know what the answer would be. I would hesitate to make an answer because, as you know, there has been stirred up a lot of resentment against the Indians on the theory that these Indian claims are blocking development. I do not want to say what they would say in a case like that. They say, for instance, in the Secretary's letter submitting this—I do not mean he is stirring up resentment—but this is the assumption throughout, that the only cloud on the Forest Service's title is the Indians' right. Now, that sentence might well be reversed to say that the only cloud on the Indians' right to title is the Forest Service's claim of control over that area. You might ask the Forest Service, also, Mr. Chairman, if there were no other way to bring this industry to Alaska, excepting for the Forest Service to relinquish its claim over any clients' land, what would be their answer. I think we would be willing to answer that together.

Would the Forest Service be willing to relinquish its rights over my clients' land; its alleged rights over my clients' land, which have already been admitted by the United States Government not to be valid, in order to bring this industry to Alaska? I think they should. I think they should not make a technical point of this attempt to set aside the decision previously made. I do not think that they should obstruct the coming of the pulp industry to Alaska by making these claims against lands that my clients claimed to own.

Mr. POAGE. What would you say about the possibility of developing this industry if the Government were to go ahead and negotiate a contract, or could the Government negotiate a contract covering only 90 percent of the land? Would the pulp industry deal on 90 percent of the lands, or is it going to be necessary to have the whole 100 percent before the pulp industry will come in there?

Mr. CURRY. That would be a question for Mr. Heintzleman or Mr. Granger. I do not know whether they have made a direct answer or not, but I am under the impression, and perhaps Mr. Bartlett can say, that they do not feel that they can go ahead unless they can control the whole area, or unless the pulp industry has access to the timber on the whole area.

Mr. POAGE. You say that the pulp industry could deal with your clients?

Mr. CURRY. I think that they would be willing to accept timber rights from my clients instead of from the Forest Service.

Mr. POAGE. I understand that.

Mr. CURRY. Except that they feel that the Government ought to—I hesitate to quote, but I will—"ought to deal with its own Indians." These Indians are citizens, too.

Mr. POAGE. Of course, though, if the pulp industry could lease 90 percent of the land, or deal on 90 percent of the land with the Forest Service and could then deal on the same terms on the 10 percent of the land of the Indians and could get all at the same royalty or payment, obviously it would not make much difference to the pulp industry who held title to the land as long as they had the same type of contract that the title was valid.

Mr. CURRY. That is exactly what I was quoting to my clients. These people want to go into business; they want timber rights up there for that purpose, and they don't care whether they pay the money to the Indians or to the Government.

Mr. POAGE. That is right. Therefore, the important thing to get this started, as I see it, is that the pulp industry may have some assurance of the validity of the title, regardless of whether it is in the United States Government or in the Indians, just so long as they know that the title is valid. And they know that they can make a contract on terms as favorable as those that they are now considering.

Now, your people are willing to negotiate on terms as favorable as those that the Forest Service is offering the pulp industry?

Mr. CURRY. I think so, Congressman Poage. I base that on the fact that the so-called 10-percent bill was widely accepted. Now, the net amount that the Indians would get would be the same.

Mr. POAGE. Assuming the lands are substantially the same, though.

Mr. CURRY. That is right.

Mr. POAGE. The timber stand is substantially the same on all the lands?

Mr. CURRY. My prediction would be that they would accept that quite readily. I think if there is any inclination on the part of this committee to wish that negotiations proceed on that basis, we could proceed and come back here in a very short time with an understanding which might be confirmed by law.

Mr. POAGE. Just how can you give a quitclaim to that other 90 percent? I do not know enough about the law. You, as an attorney, of course, have no power of attorney from each individual, and as I understand it, in some cases it gets down to a proposition that there is not any municipality, there is not any corporation, there is not any legally recognized entity, but only a band of people where each individual member would have a claim; is that right?

Mr. CURRY. I might say in that connection that, first of all, the only interests that are involved are the Government on the one hand and the Indians on the other, so that there is no fear of third parties intervening, if they can get a contract from the Government and the Indians.

Mr. POAGE. The Indians are not a corporation. The Government can act by one deed. The Government can convey whatever rights it holds just as an individual could, but the Indians that you represent consist of some seven or eight thousand individuals. In some instances, where there are municipal corporations, of course, the corporation can convey for all the members of the corporation, but where they are merely bands, is there any provision whereby the chief, or anyone else who can act for the rest of the members of the band?

Mr. CURRY. Not the chief, but the chief council.

Mr. POAGE. That is what I am trying to find out. Is there a legal set-up? You told us that there were three groups; that there were the municipal corporations. Of course, I understand how their council could convey. Of course, we understand that in some cases there has been special legislation creating legal entities that are not municipal corporations, but some other type of legal entity recognized by law, and I recognize that they can convey for their members.

Then you said that there were simply bands and groups that have claims there. Is there any law that sets them up as a governmental unit, or corporate unit? Are you going to have to have a deed from each and every individual member of those bands?

Mr. CURRY. I think not, although I do not think that that would be entirely impossible. When cash is in view to the people, that is fairly easy. They will sign up. That is fairly easy to do. Assuming that it would be possible to get everyone to sign, I think that the procedure established in the Tlingit and Haida Claims Act would be adequate. If necessary, a statute could be made extending that act to authorize also settlement of these rights. In other words, the Government took a certain amount of this land. They established a statutory tribe. That statutory tribe or group is supposed to act in behalf of all the Indians who have been injured. They in turn appoint a committee which in turn appoints an attorney. The attorney files suit, stipulations in the suit, and otherwise acts in behalf of this group in all of the cases of the individuals involved. Judgment is entered

and the satisfaction is made, and I think the Government is finally released. At any rate, I think any doubt would be so trivial, so to speak, that it would not be particularly important.

Mr. POAGE. Might the Government insert in any legislation validating the title to the 10 percent, as part of the consideration for vesting that title, a requirement for the transfer of the claims that these Indians have on the other 90 percent? Would it be possible to require the Indians to act affirmatively to accept the 10 percent, and, by their affirmative action, convey the other land?

Mr. CURRY. Right. It could be by election, for that matter. An election could be held in a week. That is exactly the way the Tlingit and Haida Act worked. They did hold an election pursuant to the regulations of the Secretary of the Interior, and that committee was appointed and elected. They in turn appointed a smaller committee. The smaller committee chose counsel, and I think that counsel has full power to act.

On the other hand, this proposition might be submitted directly to those people.

The CHAIRMAN. We have covered a good deal of ground this morning, but would you mind, in conclusion, pointing out just what specific injuries your clients would suffer if this legislation should go through in its present form.

Mr. CURRY. Well, they suffer, Mr. Chairman, the injuries that are suffered by anybody who owns a piece of land and if you or somebody else is either living on it or renting it. You might say those are theoretical injuries, but I think the other injury they might suffer is the interference with their right to dispose of that timber themselves, a right which I am sure could be exercised if it were not for the adverse claim of the Forest Service. I am sure they could sell this timber direct.

Thirdly, I think the injury they sustain is the injury to the possibility of developing these resources they have. That has been done to a very great extent on Indian territory in the United States and also in Alaska. In Alaska, for instance, the Metlakatla Indians who have their title confirmed have a sawmill of their own and I understand in the last war, when the Army needed wood, that is where they had to go to get it.

Mr. Gardner, himself, here testified if he knew—and this, I think, is a mistaken condition—if he knew where the title of this land is, he would like to set up a Menominee mill enterprise. I think you are acquainted with that enterprise. Mr. Clevenger spoke of it at the last hearing. It is a very profitable enterprise and has just brought prosperity to the Indians in that area. These Indians might do the same sort of thing with this resource if it were not for the adverse claim of the Forest Service. The injury, I think, is very substantial.

I do not mean they would want a Menominee mills enterprise necessarily in opposition to pulp mills; but, in lieu of that possibility, they could develop those resources themselves; they could have a right to make a deal themselves with people to use it.

Somebody has suggested it would be desirable, for instance, that these enterprises be conditioned; that this timber be sold after it is cut; in other words, instead of selling a lease to cut the timber, that

the Indians agree to cut and deliver logs instead of trees in the ground. That would create a tremendous amount of employment for these people. It would not be possible if this agreement is made. They would be willing to make it if their rights were recognized and they could go in and make it as American citizens and not have their property disposed of for them, or, without regard to their rights, by some official in Washington.

Have I answered your question?

The CHAIRMAN. I think so. Of course, the bill attempts to protect the rights of the Indians by providing for the disposition of the receipts. Do you have any suggestions as to what further might be included in the bill to protect the property rights of the Indians, and their rights to the proceeds?

Mr. CURRY. I think the bill might well be amended or substituted to incorporate an agreement between the Government and the Indians, which has been done throughout history, as to the disposition of this property.

Mr. ANDRESEN. You mean as a preliminary step before any disposition is made?

Mr. CURRY. Before the bill is passed; yes.

Mr. ANDRESEN. That is, the bill could be passed, but you want a provision in there before any property is disposed of that an agreement must be reached with the Indians?

Mr. CURRY. That would be an excellent provision.

Mr. POAGE. If you put a provision of that kind in there, would you ever get an agreement? If the Indians were my clients and you should write legislation where the Government would have to trade with my clients before proceeding, it would be awfully hard to trade with my clients.

Mr. CURRY. That is exactly the position you would be in if you wanted to buy my house; you would have to deal with me before you got it. I think these people have a house and they should be dealt with as property owners.

Mr. POAGE. That is all right, if you would partition the property so that you would simply have the opportunity to dictate terms as to your house or the Indians part only, but I understood you meant you would provide that it would be necessary to have the Indians approval for the whole 100 percent of the area. I am perfectly willing to agree; if you deal only with the Indians' 10 percent which we are assuming is theirs, that their consent should be required; I certainly would agree to that. But as to the entire area, if you said we had to satisfy the Indians on the entire area before we could do anything, I think it would be a little difficult to satisfy them.

Mr. ANDRESEN. Of course, your legislation would not get anywhere, but I understood that was in line with your thought and suggestion that such a provision be contained in the legislation, that an agreement had to be reached to dispose of the claims before any actual sales were made.

Mr. CURRY. Yes, Mr. Andresen.

Mr. GOFF. I do not want to prolong this any longer, but this morning you had some pretty strong testimony, or at least in your preliminary discussion of it, sufficient to satisfy me that the claim to this

vast area is very, very shadowy. I certainly would not want to be a party to saying the Government would have to make a settlement with your people before any disposition of the timber could be made. The Government, as a matter of fact, does not recognize the Indians have any right to this 90 percent, and it looks to me like this committee would be going a long way to say the Government had to pay off before they could go ahead with it. I do not recognize any right there at all.

In this bill we simply say to go ahead and let the courts settle in whom ownership rests. We are not taking any part in saying whether they have to settle or not settle. I think that is only fair. It might be they have this 10 percent, but it certainly was news to me that it had been established that they owned even 10 percent of the area.

Mr. ANDRESEN. I think the best way to handle it would be to let the Supreme Court decide what rights the Indians have in the entire area, as a preliminary step.

Mr. GOFF. And we cannot change the rights.

Mr. ANDRESEN. And we cannot change the rights; and, if they have rights there, I certainly would not want to be a party to legislation to let them go ahead and dispose of the land and then have the Government subjected to a large amount in claims.

Mr. CURRY. I think we are struggling here with a question which has no particular significance, because, if the committee were to determine that the 10 percent we speak of should be handled by the Indians, I think in very short order, before a week was out, I could get an understanding or agreement which could be incorporated into the statute that by consent the other 90 percent is authorized to be handled by the Forest Service. Then you would come into a situation like the Northern Pacific case, where the property was condemned, but with the consent of the defendants, and then you would not have the theoretical evil which I object to even as to the 90 percent. While my clients' claims to the 90 percent, as you say, might be vague, theoretically it is still an invasion of their rights. However, on the 10-percent bill all of the Indians were very willing to agree to it on a practical basis. I think the theoretical evil in this law might be eliminated by some device or other which I would be very glad to work out.

Mr. ANDRESEN. Is it not a fact if we do that then the Government would merely recognize the 10-percent right of the Indians in the over-all area?

Mr. CURRY. No.

Mr. ANDRESEN. That is in dispute at the present time?

Mr. CURRY. They do not claim a percentage right in the over-all area; they claim specific territories and they claim a very large territory theoretically. But if the Government recognized the 10 percent, which the Government has already admitted, the balance I am sure could be settled before this legislation passed.

Mr. ANDRESEN. Could that 10 percent be reduced to metes and bounds and set aside from the rest of the area?

Mr. CURRY. It has been reduced to metes and bounds on the maps by a legal definition of the claim in this decision of the Department of the Interior which the reporter took.

Mr. ANDRESEN. If that is the case, then all you have to do is to reach an agreement with the Department of the Interior that that is their area and they have no right whatsoever over the other part of the area.

Mr. CURRY. That is right. And we could do that before the legislation passes, except the Forest Service does not want to admit the Indians' claims.

Mr. ANDRESEN. The Forest Service, of course, is only one arm of the Government, which speaks for the executive department.

Mr. CURRY. I think the voice of this committee is much stronger.

Mr. BARTLETT. Mr. Chairman, I want to get one point clear. Your view, Mr. Curry, is that if House Joint Resolution 205 is enacted, it constitutes the taking of the land claimed by the Indians?

Mr. CURRY. Yes, sir.

Mr. BARTLETT. Does it, in your mind, constitute a taking in the same sense as a bill calling for the outright extinguishment of claims without compensation would be?

Mr. CURRY. It is also a condemnation, I think.

Mr. BARTLETT. Is it your view that the land, the timber, and the remainder of it, would never go back to the Indian people if this question were legally resolved and the Indians were found to be the owners?

Mr. CURRY. I think if a total extinguishment bill generally were adopted for general purposes for inclusion in the forest area, it might well be determined to be valid; therefore, it would be a complete extinguishment and there would be a condemnation and complete extinguishment of title of the Indians. But whether this bill is valid is a very serious question, because it condemns only the timber and turns that timber over immediately to a private enterprise, which is unconstitutional.

Mr. BARTLETT. But there is a wide difference between the two forms of extinguishment?

Mr. CURRY. Only in the degree of them. I think any kind of extinguishment—and I think you would agree, Mr. Bartlett—is objectionable; because the Government has always had a policy of not taking the Indians' property except with their consent. Now, a condemnation essentially is a taking without consent, and I think the Government has a policy of not taking anybody's property without his consent unless absolutely necessary and unless the consent cannot be obtained. And here you have a situation where consent can be obtained on any reasonable terms.

Mr. BARTLETT. I agree with that, Mr. Curry, but I see one difference here of degree which is this: That a condemnation bill wipes out all title to the land. This does not do that with respect to the land, only with respect to the timber which is renewable if the Indians are later determined to be the proper owners, and in 75 years or longer that timber is there again.

Mr. CURRY. Yes.

Mr. BARTLETT. There is that difference; is there not?

Mr. CURRY. Yes; but I do not think that makes any difference in the nature of the bill, though. That was your question.

Mr. BARTLETT. That is right.

Mr. CURRY. It is still a condemnation, even though it is only to a part of the property.

Mr. ANDRESEN. You mentioned the fact that the Government should have the consent, or that the condemnation proceeding would not be secure without the consent. I can cite numerous cases where condemnation proceedings have taken property where the Government never could have gotten any consent. For instance, down in the Tennessee Valley and other areas I know about, the farmers and others have been moved out of their communities, and around Washington today I can cite cases where property has been taken for parks, playgrounds, and other purposes, and where the only requirement is that compensation be paid.

Mr. POAGE. And that it be for public purposes.

Mr. ANDRESEN. Well, I do not know whether the Tennessee Valley taking was for public purposes or not; but the Constitution provides they must be compensated. Of course, sometimes the compensation is not adequate, so they can take it, of course, without consent.

Mr. CURRY. Well, the solicitude of the Government for and respect of private property rights and the right of a man to negotiate, I think, is in that very law you spoke of—the parks and playgrounds law. It specifically requires negotiation preceding condemnation.

Mr. ANDRESEN. Yes; and they have negotiation. We had that up and down the Mississippi River, too, where they acquired land for flowage rights. They go out and take several miles of land to use where no flowage is involved; nevertheless, they seem to have the authority to take it. But they do negotiate in advance and then a committee is appointed by the court to fix the payment.

Mr. HILL. But you do not have to accept the settlement of the committee if you want to go into court, and they are doing that in my county right now, where I know of a particular case where they are putting this land under water, and the farmer said, "I am not going to take what you offer me." He had a perfect right to do it. He goes into the district court, and the district court has held that he had a just claim. He can go into court.

Mr. ANDRESEN. But the average person does not have the means to fight the United States Government.

Mr. HILL. But you do have the Federal district courts in the State.

Mr. ANDRESEN. But if you go up to the Supreme Court it takes money.

Mr. HILL. That is a condemnation suit in the State that I am talking about.

Mr. POAGE. Is there not an important distinction between the ordinary condemnation and what we are talking about here? I think Mr. Curry has made it very plain that it is certainly questionable as to whether this is for a public purpose and, to me, that is hardly questionable, because it seems to be clear that this is for a private purpose. There is no benefit to come from it, excepting the money that is to be made out of it, and that cannot be defined "for a public purpose." You can take land for a road, for flowage; for irrigation

ditches, a park, dam, or playground, or anything where the public is going to get the benefit, but you cannot take land just because the Government is going to make a profit out of it.

Mr. ANDRESEN. But the Government could go in there and acquire title and then dispose of it for a private purpose.

Mr. POAGE. That is correct, if they took it for a public purpose. And this Congress did that very thing, which was an outrageous and reprehensible proceeding, I think, in Oklahoma, where the Government took land for an airfield and then they struck oil on it and the Government turned around and sold the land not to the people from whom they took it, but to oil companies to use for private profit. It is true, if we take it for a public purpose, I will agree it does not make any difference whether the Government then sells it for a profit or not; if they take it for a public purpose and, if they can justify this on the ground of taking it for a park and then they want to sell the timber later on, they can take it, I grant you, as a matter of law.

Mr. CURRY. In drafting this statute, it might have been drafted in that way without regard to the pulp industry in the first instance, but I think it is too late now in view of the legislative history connected with this very project.

And another distinction, for Mr. Andresen's information, that I think Mr. Poage made very clear, is the distinction that this is for a private purpose; and there is another one that has some bearing—that is that the Government in the past, throughout history, has always been particularly desirous not to take Indian property without their consent. And there was an article in Collier's Magazine by one of the attorneys in the Interior Department which said the Japs and the Nazi propagandists had alleged that the Nazis had not done anything different to the Jews than the United States had done to the Indians—just grabbed their property—but this article showed conclusively that in practically every case the property was taken by purchase and not by force without their consent; and that is the policy that has always existed in this Government.

Mr. ANDRESEN. The reason for that is that the Indians, of course, are considered wards of the Government and incapable of taking care of their own affairs; so that they have exercised that degree of care and diligence which you expressed.

Mr. CURRY. That is right, and that is the position we have taken from the outset. They were not a part of the Government, to start with, and there is a lot of condition attached to that. They never pushed the Indians around nearly as much as some people say they did. Even before the Indians started hiring lawyers, they were still treated fairly decently, and that policy, I think, should be followed here. It would be unreasonable to think of not getting consent here before any condemnation was made and before any law was passed authorizing condemnation.

The CHAIRMAN. Thank you, Mr. Curry. The committee will adjourn until 10 o'clock Monday morning.

(The committee thereupon adjourned until Monday, June 16, 1947, at 10 a. m.)

TONGASS NATIONAL FOREST

TUESDAY, JULY 1, 1947

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D. C.

The committee met at 10 a. m., Hon. Clifford R. Hope (chairman) presiding.

The CHAIRMAN. The committee will come to order. The Chair announced yesterday that before taking up the sugar bill this morning we would have one witness whom we want to hear on House Resolution 205, the Tongass National Forest, and then we would go back again to the sugar bill.

At this time I will ask Mr. Sutton, if he is here, to come forward. Mr. Sutton doesn't seem to be present.

We have no other witnesses on the Tongass National Forest, as far as the Chair knows. Is there anyone else in the room who is here on the Tongass National Forest bill?

Mr. HEINTZLEMAN. My name is Heintzleman of the Forest Service of the Department of Agriculture. Do I understand we will be given a chance to be heard later?

The CHAIRMAN. We are not closing the hearing. We called Mr. Sutton this morning to accommodate him. I don't know why he isn't here. The clerk will get in touch with him and we will notify you later when we will resume the hearing. It will be some time this week. For the time being we will proceed with the sugar bill. The committee will go into executive session at this time.

(Whereupon, at 10:15 a. m., the committee retired into executive session.)

TONGASS NATIONAL FOREST

THURSDAY, JULY 3, 1947

HOUSES OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D. C.

The committee met at 10 a. m., Hon. Clifford R. Hope (chairman) presiding.

The CHAIRMAN. The committee will come to order. The committee has met this morning for the further consideration of House Joint Resolution 205, and particularly to hear some of the witnesses from Alaska in connection with this legislation. I believe, Mr. Curry, you wanted to make a statement and then present other witnesses after you conclude.

STATEMENT OF JAMES E. CURRY, REPRESENTING INDIAN VILLAGES OF SOUTHEASTERN ALASKA

Mr. CURRY. Thank you, Mr. Hope.

My name is James E. Curry, and I have testified previously in these hearings. I represent the Indian communities of southeastern Alaska. I am going to say only a very few words, because we have with us representatives of the Indian communities, three members of the legislature of Alaska, and one gentleman who was chosen by the community that he represents by special election.

I testified here several weeks ago in opposition to House Joint Resolution 205. I stated generally at that time that I considered the bill a violation of the time-honored policy of the United States not to take Indian land without the consent of the Indians. I stated also that the condemnation of Indian-owned land was a violation of previous commitments made by the Interior Department to the effect that the Indians had the land and that the Government would defend their right to it.

I also pointed out a number of other reasons, that I will not go into in detail here; among others, that it was a violation of the constitutional provision against the taking of property for private use. Also that the taking under those conditions would be apt to cause the Government a very severe financial loss.

Mr. ANDRESEN. Mr. Curry, what is your understanding—that the circuit court decision recognized the rights of the Indians to a claim in that land?

Mr. CURRY. I understand, Mr. Andresen, they affirm the rights of the Indians to title to the land and to compensation in case of its taking. The Department of Justice in the lower court case attempted to take that land without paying the Indians and in disregard of their rights, but the upper court—that is, the intermediate court—determined that they had to be paid.

Mr. ANDRESEN. I haven't studied the decision, but one of the distinguished members of this committee, Mr. Goff, has gone through it very carefully. I would like to yield to Mr. Goff in order that he may give his opinion as to whether or not he has interpreted the decision of the circuit court to be in accordance with what Mr. Curry said.

Mr. CURRY. I can't say that I have made a sufficiently thorough study of it to carry on a legal argument about it, but I am willing to discuss the matter. I did not handle the case. It was handled by other counsel.

Mr. GOFF. I will ask you first, Mr. Curry, was there any appeal taken from this circuit court judgment that you know of?

Mr. CURRY. No; there was not.

Mr. GOFF. Doesn't, in fact, the circuit court opinion hold absolutely that all aboriginal rights of the Alaskan Indians were extinguished by our treaty with Russia for the purchase of Alaska?

Mr. CURRY. I think that is true. Now I might qualify that. It said that the rights as they existed at that time, the tribal rights, were extinguished. The rights that were recognized, by the act of 1884, and were recognized since then, were possessory. The theory of that case is that the possessory rights as of 1867 were eliminated. That case was not appealed. I feel sure it would be reversed, but the statement re the effect of the treaty was dictum and therefore could not be appealed. It was one case out of many, and that is all it was. It was an intermediate court. However, I do not mean to apologize for the decision. The decision did hold that the Indians had the right. That is why they could not hardly appeal it, because it upheld their rights.

Mr. GOFF. The point is that all this talk about aboriginal rights becomes largely academic, in view of the decision of the circuit court. The courts have fully determined that question. The court had jurisdiction. The court held that the aboriginal rights were extinguished. It seems to me there is no point in this matter of putting in so much time about aboriginal rights—there isn't any point in discussing it here, because it has been settled by the highest court that had jurisdiction. It was not carried to the Supreme Court. The courts have fully determined that question. The court had jurisdiction. The court held that the aboriginal rights were extinguished. Irrespective of some possessory rights that the Indians might have acquired to some place they actually occupy, the whole question of aboriginal

rights—that is the rights as aborigines, the tribal rights—have all been extinguished in this opinion, Mr. Curry.

Mr. CURRY. Mr. Congressman, they were aborigines in 1884 the same as they were in 1654. If I said that the aboriginal rights were extinguished, I did not mean to agree to that. The aboriginal rights existed in 1884; and even on the theory of this case, they were confirmed by the United States Congress at that time. That is why the court held that the Indians had to be compensated.

Mr. GOFF. That was as to the individual area that these particular Indians occupied, however; isn't that correct? The case was not decided on the whole question of aboriginal rights but on the rights of these particular Indians.

Mr. CURRY. Those were aboriginal rights; they were rights of aborigines.

Mr. GOFF. They were the same rights that any citizen might have by occupying ground, which had been recognized by the statutes you referred to, as good against anybody but the United States. In other words, some other person could not come in and dispossess them of the territory that they occupied individually or in person; that is, anyone but the United States itself.

Mr. CURRY. These aboriginal rights that the Indians had in Alaska were all, in a sense, individual. As I understand it, they were held through the towns, or tribes; but the fact is that all of the community, all of the different families, held different parts of the territory. The tribal rights were merely an aggregation of family rights. I would not want to speak with finality on it. There are other people here—incidentally, people from the Department—who might explain that case more thoroughly, because it was studied there.

Mr. GOFF. Have you read the decision yourself?

Mr. CURRY. I have read it; yes.

Mr. GOFF. I am interested in the statement that you just made, that it had been a time-honored policy of the Federal Government not to dispossess the Indians from their lands. Irrespective of any fundamental sense of equity, isn't it true that, however reprehensible as a matter of ethics it may be to dispossess the aboriginal owners of the land—that is, the aboriginal citizens, the Indians, of their territory—the courts have always recognized that the Federal Government had a legal right to do so? In other words, the Government could take it by the sword if it wanted to, and the court sustained the legal right to do it.

Mr. CURRY. They had the legal right to do it in Hawaii, as they took the Japanese property, and as they took the property of the Emperor of Japan; and if it were the policy of Congress to declare war on these law-abiding citizens, that might be done.

Mr. GOFF. I wouldn't say we claim any Japanese territory, except, I think, we assert some rights to some of the other islands in the Pacific. So far as the main islands of Japan itself is concerned, we only occupy these as a conqueror, to be restored to her as we go out. There isn't any question of change of title to the property.

Mr. CURRY. The Miller case presented a decision which might be a little disconcerting. I mean it might change the theory on which the people held their title, but it by no means wipes it out, as I under-

stand it, Mr. Congressman, and nobody can clearly say that it changes their title to the land. As the policy was stated in the Northwest Ordinance, the property of the Indians cannot be taken except with their consent or any just war waged against them. There isn't any reason here for waging a war against these people who have never in their history made war on the United States, quite differently from any other Indian tribes.

Mr. HOEVEN. What about the right of eminent domain?

Mr. GOFF. That is a quite different right.

Mr. HOEVEN. The Government would not be deprived of that right.

Mr. GOFF. No; the Government would not be deprived of that right. That is a right that exists always in the Government to take private property for the public good, upon payment of just compensation.

Mr. CURRY. That is right.

Mr. GOFF. What I am concerned with in this case is the decision of the court as to these aboriginal rights of the Indians. I happen to have the case before me at this time. I think there is a part of the decision that should be made a part of the record.

Mr. CURRY. Might the whole decision be made part of the record, Mr. Congressman? Because there is dictum in there which is rather dangerous and might be misinterpreted if it were not considered in the light of the entire case.

Mr. HOEVEN. Will the gentleman yield?

Mr. GOFF. Yes.

Mr. HOEVEN. Why wasn't this case appealed to the Supreme Court?

Mr. CURRY. Because technically and actually it was decided in favor of the Indians. You can't appeal a decision which is decided in your favor.

Mr. HOEVEN. I understood from Mr. Goff's statement that it was not favorable to the Indians.

Mr. CURRY. It certainly is. I don't think that was Mr. Goff's intention, to leave that impression. The Department of Justice tried to take the land away from the Indians without paying for it. The Indians intervened. They did not even name the Indians as parties defendant in the condemnation case; they disregarded them entirely, as is done by the House Joint Resolution 205. The Indians intervened and insisted upon their rights. The circuit court of appeals determined their rights warranted them to be compensated, and the case went back to the lower court for determination as to the amount of compensation.

Mr. HOEVEN. Do I understand the gentleman from Idaho does not interpret the decision the way you do?

Mr. CURRY. I am not sure that Mr. Goff has said, Mr. Congressman, that this was decided against the Indians.

Mr. HOEVEN. That is the impression I got.

Mr. GOFF. My opinion is it settles plainly and definitely all the questions of aboriginal rights. That is the way I interpret it. In other words, that the treaty with Russia conclusively settled that question. There may be some question now as to some rights they may have had by occupation since that time.

Mr. CURRY. Aboriginal rights of occupation.

Mr. GOFF. But they are not aboriginal rights at all.

Mr. CURRY. They are there. They do not have any deed, Mr. Goff.

Mr. GOFF. I think that is unfortunate.

Mr. CURRY. Still they are entitled to be considered.

Mr. GOFF. It does seem to me that it is a little academic to talk about aboriginal rights in this committee here. Now, whatever you may claim as to any other rights they acquired doesn't matter.

I am interested also in the testimony we had the other day in regard to some action taken by the Department of the Interior, which attempted to make an adjudication of the rights of the Indians as to some particular areas. At our meeting here the last time you said you were going to bring up a copy of that decision or finding made by the Department of the Interior. Do you have a copy of that here at this time?

Mr. CURRY. I think it was sent to the committee, together with my statement. I filed a written statement.

Mr. GOFF. I will say this: I don't think we should go into that this morning, because we have the people here to testify.

Mr. CURRY. Yes.

Mr. GOFF. There is no use going into a long discussion, but I would be interested in any statement you may have as to the jurisdiction or the power of the Department of the Interior to make any such determination.

Mr. CURRY. I filed a written memorandum stating all the various statutes under which that jurisdiction was authorized.

Mr. GOFF. I see. I haven't had an opportunity to examine it.

Mr. ANDRESEN. May I ask you, Mr. Curry, if any agreement has been reached by the Department of Agriculture since your last appearance?

Mr. CURRY. I am afraid I have to report that there has not. I thought I might report briefly on what has been done, so that the committee, who is deeply interested in those negotiations, will know what has been going on. Perhaps in this session you might get some ideas as to what further steps might be taken.

Mr. ANDRESEN. Of course, we were anticipating you might reach an agreement.

Mr. CURRY. I am sorry, but there hasn't been any agreement. These men have been down here for a week, at a definite, serious personal sacrifice, and have done their best to reach an agreement, but I am afraid it has been impossible.

The CHAIRMAN. What have they offered to do in the way of reaching an agreement? What proposal have they submitted?

Mr. CURRY. I cannot say that either side submitted a specific proposal, but from the discussions there arose a draft of a bill, which was prepared by Mr. White, the Solicitor of the Department of the Interior, and which I would be glad to make a part of the record, if it is all right with you, Mr. Chairman.

The CHAIRMAN. Is that a draft to which your people would agree, or a draft proposed by the Department and submitted to your people to which they have not agreed, or what is the significance of it?

Mr. CURRY. It was agreed to by the representatives of the natives conditionally upon an agreement by the Departments. After very long discussions, we came to a general understanding that this draft

would be adequate protection. In fact, in my opinion, it would be much better protection for the investors in the pulp industry than House Joint Resolution 205. It was discussed at very great length by the lawyers of Interior, Agriculture, and myself as the representatives of the natives. It was also discussed by Justice, although not finally decided upon by them. When we first approached the Department of Agriculture they took the position that it would be impossible to work out a bill that would adequately protect the investors. Later they agreed that this draft, prepared by Mr. White, was adequate.

Mr. ZIMMERMAN. Are you talking about House Joint Resolution 205?

Mr. CURRY. This is a new proposal, Mr. Zimmerman, which was prepared by Mr. White.

The CHAIRMAN. It has not yet been introduced. It is just a proposed draft of legislation.

Mr. CURRY. First of all, this draft sets forth the consent of the Indian communities, which I assume would be obtained in final form before the bill was passed. That, I think, would eliminate the violation of the policy that I spoke of, that ought to be preserved.

Secondly, it recognizes and stands back of the previous commitments of the Government by granting a restricted patent to the various Indian villages of the area, which has already been recognized as theirs by the Interior Department.

Thirdly, it protects the pulp and paper industry by authorizing, with the consent of the villages, the administration of all of the timber on Indian-owned land as well as on the United States Government-owned land by the Forest Service. There is a provision to the effect that in the administration of the timber the Forest Service should give some consideration to the interests of the local communities, and that when it does not interfere with the proper administration of the forest and general interest of the territory, that preference should be given to the local communities.

Mr. ZIMMERMAN. Wouldn't they do that anyway?

Mr. CURRY. They could do that anyway. That last is really not a vital provision. We might assume that the Forest Service would do that, excepting for the fact that that was exactly the provision on which the representatives of the Forest Service had the most difficulty. They said if this provision were inserted, or if patents were given, even though they were perpetually authorized to administer the trees, that they would be constantly faced with the desire of the local communities to have something to say about what should be done with the timber. That, I think, would indicate there is a possibility that the Forest Service would not consider the local interests, if such a provision were not inserted. This bill, I think, would represent a very substantial sacrifice on the part of the Indian communities and of the Indian groups.

The CHAIRMAN. What kind of sacrifice? You say a "sacrifice." What do you mean?

Mr. CURRY. I think it would be a sacrifice, because ordinarily a man who owns a piece of land has a right to negotiate directly and to sell the timber on that land himself.

The CHAIRMAN. You are assuming that the Indians own the land, aren't you? There has been no adjudication of that kind, has there?

Mr. CURRY. There has been an adjudication by the Secretary of the Interior to the effect they own that land.

The CHAIRMAN. You are talking about this particular 10 percent?

Mr. CURRY. That is right; that is all I am talking about.

The CHAIRMAN. All right.

Mr. CURRY. And that is all that they would be given an interest in. As I say, this draft represents a substantial sacrifice on the part of the Indians. They do not mind sacrificing their interests for the sake of the general good, but it would not be very consistent for them to come in and urge that that sacrifice be made. So I would not say that this is a proposal of the community, but this is a proposal that was discussed and which would be agreed to if the others were willing to come in and agree to it. That is pretty much of a half-baked proposition, I guess, but I feel as though the committee has given enough attention to this so they would be interested in how far we went and what half conclusions we may have come to.

The CHAIRMAN. Do you want to offer that for the record?

Mr. CURRY. I would be glad to put that in the record, yes.

The CHAIRMAN. If I understand you correctly, that represents an agreement on which the Indians would go along. You say they are not urging it, but they would accept it.

Mr. CURRY. Yes. I would not say either, Mr. Chairman, that they would agree to each and every word. This was prepared by Mr. White and discussed in semifinal form. There are certain provisions, such as the provision authorizing subsequent claims which we might want to refine, there are certain things which we want to fix up, but I am sure there would be no difficulty in coming to an agreement.

(The suggested revision of H. J. Res. 205 is as follows:)

HOUSE JOINT RESOLUTION 205

JOINT RESOLUTION To authorize the Secretary of Agriculture to sell timber within the Tongass National Forest, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of Congress, having been advised that the natives of Alaska who claim possessory rights in and to lands within the exterior boundaries of the Tongass National Forest in Alaska consent to the provisions of this resolution, to provide for an early and amicable settlement of the complicated factual and legal issues involved in the long-standing controversy relative to the extent of the possessory rights, if any, presently vested in the natives of Alaska with respect to the lands within the forest; and thus, by removing the cloud which exists upon the title to the lands within the forest by virtue of claims of possessory rights in and to such lands asserted by natives of Alaska, to make possible and to encourage the prompt and orderly development of the timber resources of the forest in such a way as to promote the general welfare of the United States, including Alaska and its people, native and nonnative.

SEC. 2. The Secretary of the Interior is authorized and directed to issue to native villages in Alaska, as their interests may appear, restricted patents to lands within the exterior boundaries of the Tongass National Forest in Alaska which apparently, according to the records of the Department of the Interior, particularly the findings made by the Secretary of the Interior on July 27, 1945, with respect to the "Claims of the Natives of Hydaburg, Klawock, and Kake, Alaska," and the data set forth in the report dated October 3, 1946, to the Commissioner of Indian Affairs by Dr. Walter R. Goldschmidt and Theodore

H. Haas on "Possessory Rights of the Natives of Southeastern Alaska," are subject to possessory rights upon the part of Alaska natives. The patents issued under this section shall not include, in the aggregate, more than 10 percent of the total acreage of land within the exterior boundaries of the Tongass National Forest, as calculated by the Secretary of the Interior. Such patents shall describe the lands in detail, with such specific boundaries as the Secretary of the Interior may believe to be just and proper upon the basis of the best information available to him.

SEC. 3. (a) The timber upon any lands patented to native villages pursuant to section 2 of this resolution shall be administered by the Secretary of Agriculture and sold for the benefit of the respective native villages in accordance with the provisions of the act of June 4, 1897 (30 Stat. 11, 35), as amended: *Provided, however*, That the native inhabitants of such villages may cut and use timber on their patented lands for firewood and other domestic purposes, and such native villages shall be given a preference in the sale of timber from their patented lands unless the Secretary of Agriculture shall find that the granting of such preference would be in conflict with the proper development of the forest or the interests of the United States.

(b) The proceeds of any sales of timber made by the Secretary of Agriculture pursuant to subsection (a) of this section shall be maintained in special accounts in the Treasury for the benefit of the respective native villages from whose patented lands such timber was sold, and shall be distributed at such times and in such manner as the Secretary of the Interior may prescribe.

SEC. 4. (a) Except for such lands as may be patented by the Secretary of the Interior to native villages pursuant to section 2 of this resolution, all possessory rights in and to lands within the exterior boundaries of the Tongass National Forest, if any such rights exist, are hereby extinguished.

(b) Any Indian village, tribe, band, or other identifiable group of American Indians residing in Alaska that claims to be adversely affected by the extinguishment of possessory rights in subsection (a) of this section may file suit against the United States pursuant to section 24 of the Act of August 13, 1946 (Public Law 726, 79th Cong.). Any other person claiming to be adversely affected by the extinguishment of possessory rights in subsection (a) of this section may file suit against the United States for money damages in the United States District Court for the District of Alaska, division No. 1, or in the Court of Claims. The court shall determine the validity of any claim upon which suit is instituted pursuant to this subsection and shall enter such judgment as the court may determine to be appropriate.

SEC. 5. (a) Pending the issuance of patents to native villages by the Secretary of the Interior pursuant to section 2 of this resolution, the Secretary of Agriculture, in contracts for the sale, or in the sale, of national forest timber under the provisions of the Act of June 4, 1897 (30 Stat. 11, 35), as amended, is authorized to include timber growing on any vacant, unappropriated, and unpatented lands within the exterior boundaries of the Tongass National Forest in Alaska, notwithstanding any claims of possessory rights. All such contracts and sales heretofore made are hereby validated.

(b) Pending the issuance of patents, etc., the Secretary of the Interior, notwithstanding any claims of possessory rights, is authorized to appraise and sell such vacant, unappropriated, and unpatented lands within the exterior boundaries of the Tongass National Forest as, in the opinion of the Secretary of the Interior and the Secretary of Agriculture, are reasonably necessary in connection with or for the processing of timber from lands within such national forest, and upon such terms and conditions as they may impose.

(c) The purchaser shall have and exercise his rights under any patent issued or contract to sell or sale made under this section free and clear of all claims based upon possessory rights.

(d) All receipts from the sale of timber or from the sale of lands under this section shall be maintained in a special account in the Treasury pending the issuance of patents to native villages pursuant to section 2 of this resolution. After the issuance to a native village of a patent to land from which timber has been sold pursuant to this section, the portion of the funds in the special account representing the proceeds of the timber sold from such land as determined by the Secretary of Agriculture shall be paid to the native village; and if the Secretary of the Interior shall certify, following the issuance of a patent to a native village, that land previously sold by him pursuant to subsection

(b) of this section would have been included in said patent but for such previous sale, the portion of the funds in the special account representing the proceeds from the sale of such land shall be paid to the native village. Payments to native villages pursuant to this subsection shall be made at such times and under such conditions as the Secretary of the Interior may prescribe.

(e) Upon a certification by the Secretary of the Interior that all proper payments to native villages under this section have been made, the remainder of the funds in the special account shall be disposed of in the same manner as other proceeds from the sale of national forest timber.

SEC. 6. (a) Nothing in this resolution shall affect the right of natives of Alaska to claim money damages under the Act of June 19, 1935 (49 Stat. 388), as amended, or the Act of August 13, 1946 (Public Law 726, 79th Cong.), based on events occurring prior to the effective date of resolution.

(b) The issuance of a patent pursuant to section 2 of this resolution shall be without prejudice to the right of the United States in any pending or future suit against the United States or in any proceeding before the Indian Claims Commission to assert by way of counterclaim that no possessory rights in or to the patented lands were vested in the native village receiving the patent; and if it shall be found that no possessory rights with respect to said lands were vested in such village, the value of the patented lands shall be set off against any sum awarded to or for the benefit of such village, or of any tribe, band, or group of which the village or its inhabitants may be a part, in the suit or proceeding.

SEC. 7. The term "possessory rights," as used in this resolution, means all rights, if any should exist, which are based upon aboriginal occupancy or title or upon section 8 of the Act of May 17, 1884 (23 Stat. 24, 26), or section 14 of the Act of March 3, 1891 (26 Stat. 1095, 1100), or section 27 of the Act of June 6, 1900 (31 Stat. 321, 330), whether claimed by native tribes, native villages, native individuals, or other persons, and which have not been confirmed by patent or court decision or included within reservations.

SEC. 8. The Secretary of the Interior is authorized to appraise and sell such lands patented to native villages under section 2 of this resolution as, in the opinion of the Secretary of the Interior and the Secretary of Agriculture, are reasonably necessary in connection with or for the processing of timber from lands within the Tongass National Forest, and upon such terms and conditions as they may impose. The proceeds from any such sale of land shall be paid, under such conditions as the Secretary of the Interior may prescribe, to the native village whose land is sold.

SEC. 9. The Secretary of Agriculture and the Secretary of the Interior are severally authorized to delegate to officers and employees of their respective Departments, with such authorization for subdelegation as they may severally deem to be appropriate, any powers conferred upon them by this resolution.

SEC. 10. Nothing in this resolution shall affect or be applicable to any claim or assertion of property rights by a native tribe, native village, native individual, or any other person with respect to land used for the anchoring of a fish trap or as the site of a fish cannery, and no such land shall be included in a patent issued under section 2 of this resolution.

Mr. CURRY. There is another thing about the way in which the proceeds of the forest are to be distributed. It says they are to be distributed at the discretion of the Secretary of the Interior, and we might want to put some conditions on that, but as a general thing the answer to your question is "Yes," Mr. Chairman.

I think the Indians do not have the same degree of selfish interest in the establishment of the pulp industry that the community as a whole has. As a general thing, I have been told outside interests coming in are apt to put Indians last on the list of employment. It may be doubtful, although I would not want to be sure on this, that the Indians will get as much benefit from this as will be gotten by the community as a whole, and by the country as a whole.

Mr. ANDRESEN. Would they get more benefit than they are receiving now?

MR. CURRY. That may be, Mr. Andresen, but they might get less benefit than they would get if they had the security of title to their lands, to which I think they are entitled. If they had secure title to these lands and if it were not subject to this adverse claim by the Forest Service, as Mr. Gardner has said, they could establish such enterprise as the Menominee mills, which I think everybody considers is a very prosperous institution. There are other things they might go ahead with if they had the land. On the other hand, if the pulp industry comes in there may be very substantial benefits, I don't question that, but there will also be a tendency to limit these people to the very houses in which they live, to give them only enough room to sit and not enough room to move around or to do any work. I think the prosperity of the community is often in direct proportion to the land ownership. If these people are to be made completely landless then they have some grounds to be disturbed.

However, that is neither here nor there, because, as I say, the Indians are willing to do whatever is necessary to promote the establishment of a pulp industry in Alaska. They do not think it is necessary, in order to do that, to disregard their rights entirely. They are willing, if their rights are recognized, to have it provided by law, by their consent, that those trees, which is all the pulp industry needs, shall be administered by the Forest Service. I think by doing that they have cleared themselves completely of any possible charge that they are obstructing the development of a new industry in Alaska. If anybody is obstructing it I think it is the people who insist not only that they have the timber, that they have ready access to the timber, but also that the rights of these people be obliterated. It is not necessary for the establishment of the pulp industry in Alaska, and whoever insists upon that as a condition precedent to the establishment of the pulp industry in Alaska is the person who is obstructing the establishment of that industry, whether it is a person or Government agency.

MR. ZIMMERMAN. Do you violently object to House Joint Resolution 205?

MR. CURRY. Yes, Mr. Zimmerman, I do.

MR. ZIMMERMAN. You have lost in the courts in your Territory?

MR. CURRY. It is not my Territory. I am a citizen of the District of Columbia, but I represent those people.

MR. ZIMMERMAN. Then the people whom you represent have lost in the courts which were set up to administer the rights of the people of Alaska?

MR. CURRY. That is right.

MR. ZIMMERMAN. Isn't that what House Joint Resolution 205 provides for?

MR. CURRY. House Joint Resolution 205, Mr. Congressman, provides that this property might be treated as property of the United States and disposed of accordingly.

MR. ZIMMERMAN. Well, it is the property of the United States, or else it is the property of individuals. There is a way to determine that thing, isn't there?

MR. CURRY. There are no provisions in House Joint Resolution 205 to determine that.

Mr. ZIMMERMAN. You have got laws there that would determine that issue, haven't you?

Mr. CURRY. I am afraid there are not any.

Mr. ZIMMERMAN. There are not?

Mr. CURRY. There are not any that would provide either compensation or protection for these people against this taking. You see, Mr. Congressman, this is taking not for the purpose of constructing a public monument or for the purpose of building a public building, this is taking solely for the purpose of turning this property over to a private corporation for its operations. Now, ordinarily, in American communities, if a private corporation wants some raw materials for its business, it goes to the people who own the land.

Mr. ZIMMERMAN. Let me ask you this: Don't you think the Government has a right to do that with Government land?

Mr. CURRY. With Government land?

Mr. ZIMMERMAN. Yes.

Mr. CURRY. I think it has a right to.

Mr. ZIMMERMAN. If the Government comes into your Territory and undertakes to take some man's property that doesn't belong to the Government, haven't you got courts to settle that question? Isn't there a procedure whereby it might be enjoined or stopped?

Mr. CURRY. We might go to the courts, Mr. Zimmerman, for protection against a statute like that if it were carried out, but I do not think we should thereby abandon our right to appeal to this committee not to adopt it. I think this committee has as high respect for the Constitution and for private property rights as any court might have.

Mr. ZIMMERMAN. You can't take away a man's rights by legislation.

Mr. CURRY. I don't think the committee would want to.

Mr. ZIMMERMAN. The committee would not want to do that, and this bill does not do that. In other words, the rights were to be adjudicated. I think there is much ado about nothing. In other words, the question is whether you want that industry started in your country there, to help the economy of the people who need it. This bill was prepared to take care of that situation, and then you come in here, and we have all sorts of obstructions.

Mr. CURRY. Mr. Zimmerman, in order to make it possible for this to be done, the communities have indicated their willingness that the Government should come on their land, and that these private people should come on their land and take the timber away, which I think is a much more important contribution than any other element.

Mr. ZIMMERMAN. Has there been any adjudication there as to who owns the land?

Mr. CURRY. There have been talks, and there has been an adjudication in the Department of the Interior, after meetings participated in by some 57 attorneys, to the effect that these people that I represent own an exactly defined area in this land which is set out in metes and bounds.

Mr. ZIMMERMAN. What is the effect of the decisions of the Department of the Interior, which are printed and become semiofficial?

Mr. CURRY. I think the effect of those decisions is to do whatever necessary and to commit this committee against an arbitrary taking of those properties.

The CHAIRMAN. Have you concluded?

Mr. ZIMMERMAN. Yes.

Mr. GRANGER. Mr. Chairman.

The CHAIRMAN. Mr. Granger has a question.

Mr. GRANGER. You say the document you submitted for the record is something that you agree to; is that right?

Mr. CURRY. Yes, sir.

Mr. GRANGER. In arriving at that conclusion what position did you recede from, which you had to take to make that compromise?

Mr. CURRY. Pardon me?

Mr. GRANGER. What position did you recede from, if any, when you compromised on the document you inserted in the record? You say that was a compromise between you and your client and someone else.

Mr. CURRY. The position, as I stated, in House Joint Resolution 205, Mr. Congressman, was to treat this whole area as a part of the national forest. That in face of the fact that the Secretary of the Interior had notified the natives of Alaska that some certain defined area was their property and that they had the same right to it as a man who had a deed, and that those rights would be protected. That was the position represented by House Joint Resolution 205, that that decision would be wiped out and completely disregarded. The effect of this draft would be to recognize that area as belonging to the natives, or whether recognizing it or not, granting that territory to the native communities, and then by an arrangement between the native communities and the Government, providing for joint administration of both the native-owned and Government-owned Territory, which, as I see it, is a perfectly feasible way to operate the thing.

Mr. ZIMMERMAN. Was this national forest set up by the Government?

Mr. CURRY. The national forrest was established by the Government, subject to valid existing rights.

Mr. ZIMMERMAN. Isn't that the way they do it in this country? If they want to set up a forest they buy lands and put it in the forest no matter whether the man owns it or not.

Mr. CURRY. If the Government wants to buy this land there is no reason why it cannot be negotiated in fair and legal terms. This House Joint Resolution 205 doesn't want to do that, it wants to completely disregard the existence of the Indian property rights.

Excuse me if I seem to stress the Indian side of it. This does not represent only Indian rights, but some of the rights are the rights of white persons. One of the first persons whose rights would be affected is a white man who invested some \$40,000 on the basis of titles such as would be wiped out by this original legislation.

Mr. ANDRESEN. I would like to clear up just one thing before you get through. Are you talking about an undivided 10 percent of all the land in the Tongass National Forest, or are you talking about the 10 percent of the land that has been set aside as a reservation?

Mr. CURRY. I am talking about a specific 10 percent; not an undivided interest, but a divided interest.

Mr. ANDRESEN. That 10 percent has been staked out in metes and bounds?

Mr. CURRY. In one of the two decisions to which I referred it has been actually staked out in metes and bounds. That is the so-called Ickes decision, or the Hanna decisions, which was rendered by Judge Hanna of the New Mexico Supreme Court.

Mr. ANDRESEN. This 10 percent you are talking about can be definitely described as a certain tract of land, and some of it has been staked out in metes and bounds? I think there has been some misunderstanding about the amount of land involved, because I understood you, or some other witness, to state that you claim an interest in the entire forest area. Now that is not correct?

Mr. CURRY. There is a claim, Mr. Andresen, but we do not insist that that be covered by this legislation. All we insist upon is not upon what the Indians claim, but upon that part which the Government has already admitted belongs to the Indians. That isn't all they think they are entitled to, but they are willing to settle on that basis temporarily.

Mr. ANDRESEN. That is, of course, just a temporary proposition. But as I understood you when you appeared before, you said that the Indians had not accepted this land, had not staked it out in metes and bounds; is that correct?

Mr. CURRY. They did not accept it as giving them all they were entitled to. There was no agreement reached at all on the subject. It was a determination by the hearing officer, Judge Hanna.

Mr. ANDRESEN. Are they now ready to accept the land that has been staked out by metes and bounds and deal with that exclusively?

Mr. CURRY. Yes.

Mr. ANDRESEN. They should agree to the decision of the Department.

Mr. CURRY. That is right; that is what it amounts to.

Mr. ANDRESEN. They haven't done it?

Mr. CURRY. Nobody has asked them to. That is exactly what we have been negotiating about, and that is what would be incorporated in this statute.

Mr. ANDRESEN. It seems to me you are making it very complicated, or it is being made very complicated. All they have to do is to say, "We agree to what has been staked out as our land, as the reservation land," but they haven't done it thus far.

Mr. CURRY. They are ready to at any time.

Mr. ANDRESEN. Hasn't the Department made the proposition?

Mr. CURRY. The Department is ready to make the proposition; the Interior Department is ready.

Mr. ANDRESEN. Why did they stake out the land?

Mr. CURRY. That is a very, very good question, Mr. Andresen. If they do not pay any attention to that staking out now it seems that there is a doubt about why they ever did it.

Mr. ANDRESEN. How long ago is it since they staked it out?

Mr. CURRY. About 2 years, I think.

Mr. ANDRESEN. It occurs to me all the Indians have got to say is "We will accept that"—period.

Mr. CURRY. That is right. This bill would seem to indicate that no decision had ever been made, Mr. Andresen.

MR. ANDRESEN. When that is accepted on the part of the Indians, does that relieve any responsibility on the Federal Government for the balance of the land in the Tongass National Forest?

MR. CURRY. Speaking for myself, I would say "yes," Mr. Andresen. Now there is a possibility of other possessory rights in the balance of the area held by individuals. To the extent that these people are members of communities and therefore can be represented by individuals it would clearly avoid the balance of the area. But the rest I think would be trivial and would not be of any particular consequence. The Department of Agriculture agreed that this would form a firm basis for the investment of money in the pulp industry.

MR. ANDRESEN. I assume the reason the Indians have not accepted the proposal of the Department is because they do not think it is satisfactory. In all probability that proposal contemplated they will waive any claim that they have in the rest of the land.

MR. CURRY. That is right.

MR. BARTLETT. Mr. Chairman.

THE CHAIRMAN. Mr. Bartlett.

MR. BARTLETT. Mr. Curry, how many acres were included in the Ickes decision?

MR. CURRY. I better inquire from someone who knows better than I. 273,000 acres.

MR. BARTLETT. Can you give an approximation of the acres included in the Haas survey?

MR. CURRY. I think it is about 1,200,000.

THE CHAIRMAN. Will you come up, Mr. Haas, and give us those figures?

MR. HAAS. I am Theodore H. Haas, chief counsel of the Office of Indian Affairs.

According to a rough planimetric survey made by the Bureau of Land Management a few days ago, the area covered by the so-called Haas-Goldschmidt report that was found to be in possessory use and ownership by the native Indians in Tongass National Forest amounted to a little over 1,000,000 acres. That includes 270,000-odd acres in the Ickes-Hanna decision.

MR. BARTLETT. That includes the Hanna decision?

MR. HAAS. Yes.

MR. BARTLETT. Then you have, according to the draft prepared by Colonel White, 1,000,000 acres going to patent in the Tongass National Forest out of a total acreage of 16,000,000?

MR. CURRY. Yes; and that would be subject to the right of the Forest Service to administer that area the same as if it were a part of the national forest.

MR. BARTLETT. So that the record may be complete, I think the committee should know the difference between the Ickes decision and the Haas-Goldschmidt report. I wish you would explain that. My understanding is the Haas-Goldschmidt survey was in the nature of a preliminary investigation, which was not attended by witnesses other than the Indians; is that correct?

MR. CURRY. The witnesses were Indians, that is true. As I understand the situation, the rules of procedure which were adopted by the Department and drafted, I guess, by Mr. Gardner, who was then the

Solicitor of the Department, provided that the preliminary determination should be made by the Office of Indian Affairs, that that should then be submitted to the hearing officer, and the Indians would be given an opportunity to submit any further evidence that they might wish concerning it. I must admit that it doesn't have the finality of the other decision with regard to the three towns, the 270,000 acres. But so far as the Government is concerned, I think it is rather final. The purpose of the additional hearings would be to give the Indians an opportunity to increase it, and I do not believe the Government would be in a good position to try to reduce the findings made in the Haas-Goldschmidt report.

Mr. BARTLETT. In connection with the very lengthy discussion that has gone on during the past week in an effort to reach some compromise agreement, was not the suggestion made that the bill might contain a provision affirming the acreage determined in the Ickes decision and leaving to later hearings the land initially surveyed by Mr. Haas and Dr. Goldschmidt?

Mr. CURRY. Yes; that was considered, and considered favorably by the natives. I think that might be called one of the details that could be worked out in connection with this bill, if it could be accepted in principle by the Government agencies concerned.

Mr. BARTLETT. Now, Mr. Curry, that draft also provided that the Indians would be willing to relinquish all claims to areas other than those we have discussed; is that correct?

Mr. CURRY. I think that was inherent in the draft.

Mr. BARTLETT. Now I think the committee ought to be brought up a little more to date in connection with these negotiations. Would you tell the committee the attitude of the Agricultural Department, the general attitude at the meeting held with Assistant Secretary Brannan on Monday last with reference to Colonel White's draft?

Mr. CURRY. As I understood it, it was agreed that this draft would be acceptable from the point of view of providing a firm legal basis for the establishment of the pulp industry. If that isn't correct, the attorney is here and he can state otherwise.

Mr. BARTLETT. And at the same time Mr. Watts, Chief of the Forest Service, presented a viewpoint that so far as he was concerned there would be considerable administrative difficulty; is that correct?

Mr. CURRY. I pointed out that the need for industrialization of the local community would be something that ought to be considered, as was pointed out here today, regardless of any provision of the law. Mr. Watts insisted, as I recall it, Mr. Bartlett—and you were there—that any such provision in the bill, coupled with the basic ownership of the land by the Indians, might lead to pressure against the Department to exercise their discretion in favor of local interests rather than in favor of absentee pulp interests.

Mr. BARTLETT. Will you tell us under what authority the Secretary of the Interior acted when he appointed Judge Hanna to conduct the hearings in Alaska, which were held, I believe, in the autumn of 1944?

Mr. CURRY. Those hearings were held under several statutes which, as I say, I cover in a memorandum, based on the rules and regulations which were prepared by Mr. Gardner. One of them was the statute

authorizing him to administer public lands which forbids interference with private interests; another was the division regulations; another one was, as I understand it, the authority given him by the Congress to determine these very rights and to establish reservations covering those areas which the Indians occupy and own. That is the so-called reservation provision of 1936, and the legislative history of that law shows that it was intended to settle Indian titles. Just as Mr. Andresen here said, it seems to me that the logical outcome of these hearings was to settle and determine these Indian titles and not come back to Congress and ask Congress to disregard all of these proceedings that have gone before and to upset Indian titles more than ever, and thereby incur the resentment of all the local communities that previously had assurances that they had this title.

Mr. BARTLETT. Of course, Mr. Curry, when Secretary Ickes made his ruling he believed, supported by the legal advice in the Department, that he had authority to conclude this land settlement. My understanding is there is not the same full faith in that authority today by certain officers of the Department. Is that correct?

Mr. CURRY. The same officers who made that legal determination were the officers who drafted this bill. Mr. Gardner was the solicitor at the time all these things were decided, and he is the same person who was responsible for the drafting of House Joint Resolution 205. I think the views he expressed are not exactly relevant. He says that the Department may not have power to bind third parties. That may be true, but that is not relevant to this particular bill, because the only people involved here are the natives on the one hand and the Government on the other hand, and the determination was to bind the Government and not necessarily, in terms or otherwise, to bind third persons. The Secretary, in stating his decision, said:

These are lands which belong to you. They belong to you in the same sense as if you had a deed registered in the registry of property, and they are lands which are not subject to homestead or other forms of disposition of public property.

Mr. BARTLETT. However, is this not true, that there is now a substantial opinion in the Government itself that this action of Secretary Ickes was entirely without legal authority whatever?

Mr. CURRY. I haven't heard that opinion expressed. Certainly not in such broad terms as that. The Forest Service might say that the Secretary of the Interior had no power to bind the Secretary of Agriculture, but the Secretary of the Interior is a part of the President's cabinet. He is in charge of the territory, he is in charge of the Indians, and he is in charge of the public lands, and I assume if he were going to make a commitment to the people of Alaska that they have a right to assume that he is authorized to do it. This is a commitment which, whether legally or politically, is binding in good faith upon the Government of the United States and not one which this committee or the departments themselves should wave aside.

Mr. GOFF. You agree, however, that an officer of the United States has only the authority that is granted him by statute to act? That is, he cannot bind his Government unless his Government has granted him the authority to act?

Mr. CURRY. Speaking in strictly legal terms, that is true, and I think he had legal authority to do this, but speaking in terms of the good faith of the Government, when a member of the President's Cabinet speaks on a subject like this that word should be kept by the rest of the Government, otherwise we do not have a government of continuity and of laws but we have a government of men that may change from one administration to the other, or as we see here, in the midst of the same administration.

Mr. GOFF. I do not want to argue with the witness, but it does seem to me he is arguing just the reverse of what he started out with, and that is talking about government by men, because Secretaries of the Interior change, but his legal authority does not, unless Congress gives him additional authority, and if later it is determined he acted without authority then the Government would not be bound by his acts. I think you agree with that.

Mr. CURRY. I think that is technically correct. For one thing, I do not agree he acted without authority.

Mr. GOFF. I realize that.

Mr. CURRY. That is one thing. And second, I think as a matter of, as I said, the good faith of Government if a commitment is made which is not dishonest—and this was not a dishonest commitment—by such an important official who is a member of the President's official family, it ought to be lived up to, and I think, Mr. Bartlett, you will agree with me on that.

Mr. GOFF. I would certainly not foreclose my mind. But I would not want the committee to get the impression that the mere fact the Secretary of the Interior made a finding would in itself preclude any inquiry as to whether he had a legal right to make that finding.

Mr. CURRY. No; and if there was something dishonest about it the Congress might well reverse it, but if it is proper and honest and is used as a basis for good relations and honest relations between the Government and its loyal citizens, it ought to be maintained.

Mr. ZIMMERMAN. Was this forest created by act of Congress?

Mr. CURRY. It was created by Executive order, I believe, of President Taft.

Mr. ZIMMERMAN. Under a statute that gave him authority and power to do that?

Mr. CURRY. Yes; subject to valid and existing rights. I think that policy was commended by a policy that this Congress might support. That is, that the Congress did not have in mind taking away private rights, because of the fact if private rights are taken they must be paid for, and the cost of acquiring private land for national purposes in this case, or any other, might be excessive.

Mr. ZIMMERMAN. You are not questioning the validity of the act creating the national forest by Presidential order?

Mr. CURRY. No; not at all; because it is subject to existing rights.

Mr. ZIMMERMAN. That land becomes part of the national forest, it becomes part of the land under Department of Agriculture jurisdiction.

Mr. CURRY. Only to the extent that there are not any valid existing rights to the contrary.

Mr. ZIMMERMAN. What kind of rights are you talking about?

Mr. CURRY. The right of a man to the ownership of a piece of land, which is one of the most substantial rights that there is as the basis of our civilization, I think.

Mr. ZIMMERMAN. If the statute gives the President the right, by Executive order, to create a national forest and he goes out and does that, don't you think that is a valid transaction?

Mr. CURRY. That is a valid transaction; yes.

Mr. ZIMMERMAN. Don't you think the national forest was established in a valid, legal manner?

Mr. CURRY. Yes, sir; it has been.

Mr. ZIMMERMAN. All right. We have to deal with it as such.

Mr. CURRY. That does not include any property which belonged to any private person.

Mr. ZIMMERMAN. That is your statement.

Mr. CURRY. Those are the terms of the order, Mr. Zimmerman.

Mr. ZIMMERMAN. I am talking about the order made. I asked you that question. You put "buts" in there that you say are in the order. What is in the order creating the national forest is the law we go by.

Mr. CURRY. The law says it is subject to valid existing rights.

The CHAIRMAN. Have you concluded?

Mr. CURRY. Mr. Chairman, I might say further that in the course——

The CHAIRMAN. We have met this morning to hear the Indian representatives. The time has gone by very rapidly. I don't know how much time it is going to take to hear them. I have no idea, but I understand they have to leave this evening. It is up to you. If you want us to hear them, we have to have time to do it.

Mr. CURRY. I am sorry. I had not intended to spend any length of time at all. The only reason I did was because of the questions that were raised. I did agree yesterday, in the discussion with the Secretary of the Interior, that we would mention another suggestion that he made, and that is to return to the old 10 percent bill which would authorize the taking of this timber, subject to the payment to the natives of 10 percent of the proceeds of the national forest. We found that that proposal was generally acceptable, subject only to an understanding that the title is not to be left up in the air, and that these proceedings which were started in the Department of the Interior will be finally determined, and that a final determination of the rights of these people will be made in short order either by administrative action or, perhaps, by the enactment of Representative Bartlett's title extinguishment bill which authorizes negotiations for extinguishment or otherwise. I assume if the Secretary does get an agreement on this bill he will make clear at the time he suggests this alternative that the property rights of the Indians will be quickly settled. It might be desirable that a copy of that bill will be also made a part of the record, if that could be done, Mr. Chairman.

The CHAIRMAN. All right; without objection, that will be done.
(The bill referred to is as follows:)

A BILL To authorize the Secretary of Agriculture to sell timber within the Tongass National Forest and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) That the Secretary of Agriculture, in exer-

cising his authority to sell national forest timber under the provisions of the Act of June 4, 1897 (30 Stat. 11, 35), as amended, is authorized and empowered, in the sale of timber within the exterior boundaries of the Tongass National Forest in Alaska, to include, on terms and conditions not inconsistent with the provisions of this Act, timber growing on any vacant, unappropriated, and unpatented lands claimed by any native tribes or villages, native individuals, or other persons. All such contracts heretofore made are hereby validated.

(b) The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to appraise and sell such vacant, unappropriated, and unpatented land, including lands claimed by any native tribes or villages, native individuals, or other persons, within the exterior boundaries of the Tongass National Forest as, in the opinion of the Secretary of the Interior and the Secretary of Agriculture, are reasonably necessary in connection with or for the processing of timber from lands within such national forest, and upon such terms and conditions as they may impose.

(c) No patent issued under this section shall be set aside or in any way impaired by any court decision adjudicating native or other possessory rights, and no contract to sell or sale made under this section and then in existence, or any rights or permissions granted to a timber sale purchaser to use the surface of lands in the removal or processing of timber, shall be terminated or in any way impaired by any court decision adjudicating native or other possessory rights in the area subject to the contract or by the issuance of a patent or the establishment of any formal reservation in such area, and the purchaser shall have and exercise his rights under such patent, contract, or sale free and clear of all claims based upon native or other possessory rights.

SEC. 2. (a) The authority to execute new contracts to sell or to make new sales under section 1 of this Act shall not extend to lands which have been patented, formally reserved, or finally adjudicated to be the property of any native tribe or village, native individual, or other person, without the consent of such tribe, village, or person. After any such patent, reservation, or adjudication to or in favor of a native tribe or village or native individual, the entire receipts, less the cost of administration as determined by the Secretary of Agriculture, thereafter received under contracts made prior thereto from the sale of timber from such lands shall be paid over to the Secretary of the Interior for distribution as provided in subsection (d) of this section.

(b) After any final determination, by adjudication or by or under Act of Congress that any or all lands within the Tongass National Forest are held by the United States free of the claims of any native tribe or village, native individual or other person, the receipts from the disposition of such lands or the timber thereon shall be distributed as otherwise provided by law.

(c) Ten percent of all receipts hereafter received from the sale of timber from lands as to which there has been no final determination of the nature and extent of native possessory rights, within the exterior boundaries of the Tongass National Forest, or from the sale of such lands under section 1 of this Act, shall be paid over to or shall be retained by the Secretary of the Interior for distribution as provided in subsection (d) of this section.

(d) Payments to the Secretary of the Interior under subsections (a) or (c) of this section shall after the close of each fiscal year be distributed to native tribes, villages, or individual natives, occupying or claiming lands within the exterior boundaries of the Tongass National Forest. Such distribution shall be made to bonded officers of the various native tribes, villages, or associations, or to individual natives occupying or claiming such lands but unaffiliated with such tribes, villages, or associations. The Secretary of the Interior shall make such distribution with reasonable promptness, either on a basis of the location of the lands cut or sold or on such other basis as may in the circumstances appear just: *Provided*, That payments made under this Act shall be considered as payments on account of any claim by tribes, villages or persons receiving such payments against the United States and based on a taking of, or interference with, land or timber rights in any area within the exterior boundaries of the Tongass National Forest.

SEC. 3. Nothing in this Act shall be construed as recognizing or denying the validity of any native or nonnative claims to lands or timber within the exterior boundaries of the Tongass National Forest, or as impairing the right of any native tribe or village, native individual or other person having a valid claim to lands or timber within that area to recover from the United States for the

value of such land or timber as may be disposed of under this Act. Such recovery may be had, in addition to any other remedies which may be available, by filing suit against the United States, either in the Court of Claims or in the District Court of the United States having jurisdiction over such area, at any time within five years after the land or timber has been disposed of by patent, contract or sale.

The CHAIRMAN. Does the Chair understand that all four representatives want to appear? Am I right about that, Mr. Curry?

Mr. CURRY. Yes.

The CHAIRMAN. I have their names on the list. I will call them in the order in which they appear on the list. The first witness will be Mr. Frank Johnson.

STATEMENT OF FRANK G. JOHNSON, MEMBER OF THE LEGISLATURE OF ALASKA

The CHAIRMAN. Mr. Johnson, the committee will be glad to hear any statement that you care to make with reference to this legislation. Tell us, if you will, for the purpose of the record your name and whom you represent, if any organization.

Mr. JOHNSON. My name is Frank G. Johnson, Kake, Alaska. I have lived in Alaska practically all my life, except for some years spent in Oregon in school. I am a member of the Alaskan Native Brotherhood, and I also am a member of the executive committee which is composed of all past grand presidents, and I have become a member of the committee practically for lifetime. I have also been a member of the House of Representatives of the Territory of Alaska.

There was no formal election, much as we would liked to have had it, on this particular piece of legislation. The original bill that was drawn up was sent to our people in Alaska. I think it was more or less unanimously acceptable.

The CHAIRMAN. What bill was that?

Mr. JOHNSON. That was the one that incorporated the idea of 10 percent being paid outright, and that determination would be quickly followed as to how much land we actually own.

The CHAIRMAN. That is similar to the bill which Mr. Curry has just submitted a few moments ago?

Mr. JOHNSON. Yes.

The CHAIRMAN. You would still be agreeable to that proposal, would you?

Mr. JOHNSON. With this understanding: It was unanimously agreeable, I believe, that some sort of settlement would be made based substantially on the Haas-Goldsmith report. That was the general understanding. I think practically all the towns, with one exception, a small community by the name of Kasaan, I understand they wanted to have it settled right then and there.

The CHAIRMAN. You realize that is impossible, don't you, to settle it right then and there?

Mr. JOHNSON. That is just one town. Most of our people conceded it was impossible to have everything settled right then and there. However, going back to the history of this matter, if you will pardon me, our people have lived in that country all their lives. When the Russians occupied the area we were never bothered about our owner-

ship of the land. They came in there with our permission. They did not impose any taxes, or anything of that sort. We just simply traded with them. Our people used to come down as far as the Columbia River for the purpose of trading. There were no restrictions on our movements. We went into the interior of Alaska, what is now known as Canada. We went wherever we pleased.

On this question of whether we feel we own the land, up to that time we stayed in various places. We respected one another's property as we saw it. We referred to certain areas as belonging to certain families, and while we did not shoot anybody for coming in there, there was a general understanding if you came in there you asked permission first.

The CHAIRMAN. Were there any boundaries established between the natives?

Mr. JOHNSON. There were more or less very definite boundaries. We had no surveyors, or anything of that kind, but there were very definite boundaries that you could actually point to. From this point on, this particular bay belonged to such and such a family. There was no misunderstanding as to where this particular land started and ended. In that sense we did have boundaries; there is no question about that.

For many years our people knew nothing about the white man's law. All they knew was our own customs, and our own customs said we owned those lands. No white man ever came around and told us we did not own the land. You never heard anyone saying that, until a few years later when the miners came up, then they began to say the Indians could not hold any mineral rights. We had this language difficulty. We could not make any complaints to anyone. We did not know of any lawyers. There was no government to speak of, everybody knew that, until 1884, and even then we did not know we had certain rights under that law until much later. Certain governors would give papers to our people telling them that "You own this particular land." Not knowing the law, about whether the document was valid or not, our people accepted those as confirmation of title to the land. Until recent times nobody paid attention to it, until our children were trained to believe the Government owned the whole thing. A few of the older people objected violently and they told others they would possibly chase some of the white men out if they stepped out of line.

I know of one particular instance; a great uncle of mine was told he could not cut any trees. I don't know what the name of the Forestry man was, but he was told he could not cut trees without a permit. He was told they belonged to the Government, and he could not understand it. His great grandfather had unbroken, recognized ownership of the land. He pointed to an ancient stump of his forefather's house and he said, "This is where our people were born."

The CHAIRMAN. All these matters no doubt have been gone into thoroughly in the consideration of the rights of the Indians to this land by the Department and in the courts. This committee of course hasn't any jurisdiction to settle any question as to who owns the land. We are not going into that part of it. I think you have made it clear that your people have claimed the lands back through the years

as far as you can remember, and that is your claim now, is that correct?

Mr. JOHNSON. Yes. Coming down to these hearings conducted by the Interior Department I might say our people were very skeptical about the whole procedure. They did not know exactly what the outcome of it would be. Their contact with the Forestry people in particular, because they were right in the Tongass area, had not been very happy. The Forestry Department I think will bear me out that they took the position that our people could only hold practically the bare amount that the houses were on and the undefined use of the area surrounding the place. Actually those houses were put in for a specific reason. They hunted and fished and did other various things, and they were put there because the places were strategic, not necessarily because they got the most fish out of it, the most timber, or anything of that kind, but merely because it has been handy for them to hold those things in effect, because they felt they owned most of it.

When these hearings came on they told their story simply as the questions were put to them. They were asked what areas did such and such a family own in early times, and they answered the questions. Later on when it began to dawn on them because other interests had very brilliant lawyers to oppose those things, they began to think there must be some importance being attached to these hearings, otherwise the salmon canning industry, the Forestry Department, and others would not be objecting to these things, so they began to look into it and tell the story as they saw it. Then the decision was finally made and they were not satisfied with it. They felt they had title to larger areas.

In our case they considered the Kuiu Island the most valuable island because of the timber resources, the rich fishing grounds, and so on, trapping furs, and everything of that kind, that was really considered from all angles the richest territory in that particular area. When that decision came it was not quite complete. The decision stated that the area comprising Kuiu Island would be left until a later date. Consequently they did not feel that they could accept that area that was awarded to them outright according to the decision. They felt if they accepted this particular area it would prejudice their claim to other areas that they felt belonged to them. They wanted to wait until some decision was made specifically stating "You own this particular land, and this particular land."

Their attitude about reservations for many years was that they did not want to have anything to do with it. The propaganda that was carried out was very strong, and naturally those that had not had a chance to go to school were told that they could not vote, they were to be segregated, that they were to be discriminated against in many ways, and that they could not handle their own affairs or be allowed any voice in the handling of any money or property that came their way.

The CHAIRMAN. You don't contend we can settle all those questions in this legislation, do you?

Mr. JOHNSON. I am stating those things just as a background of why our people did not accept it.

The CHAIRMAN. I think we understand it.

Mr. JOHNSON. The question was raised by one of the committmen, I believe.

The CHAIRMAN. Yes.

Mr. JOHNSON. I am making a small attempt at answering it.

The CHAIRMAN. You were pointing out the reasons why you did not accept the award that was made.

Mr. JOHNSON. I might break off the testimony here for a minute. When we went to Seattle our people began to attach so much importance to this comparatively small and rather poor community that they raised enough money to pay my expenses to Seattle, so I could get in on the testimony and the hearings there.

The CHAIRMAN. Yes.

Mr. JOHNSON. Actually it wasn't quite enough to pay all the expenses. I cleared about \$1,100. Because I could not wait, because of the urgency of time, I paid stenographers and had some research work done on the laws affecting us, the various decisions, which cost me approximately almost half of the earnings I made, in addition to what the community raised. So we put in our testimony on it. Our people really believed at that time that this decision would be final when and if it was made.

They did not expect to get all the lands that they originally owned, they recognized that they had lost some of it through various laws that they could not understand, but they felt that the United States, in selling the land or in acquiring the land and in moving in, they felt that they were entitled to hold on to what they had and the Government was entitled to use and appropriate whatever lands they had. They believed the Government had an absolute right to do what they pleased about it. On the other hand, they also felt that the Government would be more or less fair in giving them whatever lands they wanted.

I want to end up the other part of that. Our people, when they saw what was happening in other communities, felt the only logical way they could protect their lands was possibly by the creation of reservations. Certain people may quarrel with that, but I am in constant touch with most of the communities and it is my honest opinion that a lot of people are coming around to that view, that there should be some sort of specific areas set aside for our people. That is one of the objections that they really offer. It may be unjustified, but they feel if the United States takes away everything under this act without giving them an opportunity to develop their own businesses, they feel they will be just put in the status of drawing a small pension for the rest of their lives and no chance at all to develop.

The CHAIRMAN. You understand, do you not, that this bill that we have before us does not purport in any way to affect your claims, or the claims of your people? It very specifically says it does not affect them in any way. You understand that, do you not?

Mr. JOHNSON. It seems, by inference, to indicate as not being able to go to the Forestry Department and develop any business. When the pulp industry leases those lands they will have complete control over it for an indefinite period. I may be wrong about that, but that seems to be the general assumption. Therefore they became alarmed about it.

The CHAIRMAN. As I understand the position of your people, you are still willing to go ahead and permit that arrangement to be made if you are given some other concessions, isn't that true?

Mr. JOHNSON. That is substantially correct. If there was some provision made so that title to the land could be settled within a reasonable time and not be allowed to drag on for, say, 10 or 20 years. That is one of the reasons why we were sent down here, I believe, is to make a plea to Congress that some action be taken to settle the whole question. We have been getting telegrams and letters to the effect that feeling is running quite high because they feel we were sent down here to oppose this legislation. Well, we were sent down here mainly to find out what the various interests were. If we opposed the bill outright we felt we would be doing not only ourselves and our people an injustice, but the Territory as a whole. We were sent down here to find out what, if any, feasible solution might be found for this whole problem.

The CHAIRMAN. As you understand it, then, the people generally in Alaska, and particularly that part of Alaska, are hoping that this development will take place?

Mr. JOHNSON. They have come down with the assumption that they would like to see the place developed. On the other hand, they feel their property rights should be protected. That is about all I have to state.

The CHAIRMAN. Thank you very much. The next witness on the list which has been furnished the chairman is Mr. Frank Peratrovich. We will be glad to hear from you, Mr. Peratrovich.

STATEMENT OF FRANK PERATROVICH, REPRESENTING THE COMMUNITY OF Klawock, ALASKA

Mr. PERATROVICH. Mr. Chairman, my name is Frank Peratrovich and I am from Klawock, Alaska. I have been chosen by that community to represent them here at this hearing.

I do not wish to go into the details of establishing the rights that we feel we have in this area that is now in question, because I think Mr. Johnson went into that in detail, further than to say when the hearings were originally held in Alaska many more representatives of our people testified in trying to establish what they considered was rightfully theirs. For that reason, I will confine my statement only to the House Joint Resolution 205.

Now, we are against this particular resolution, feeling that it will not accomplish the things that both the white population and the native population of Alaska are desiring to accomplish. We feel if there is going to be any successful development of the Territory there should be some sort of decision or legislation, whatever it may be, set forth to clear this so-called title that is now over the areas in question in the Territory.

Now, there was a reference made by one of the committeemen here, I think the gentleman from Idaho, that our discussion here in regard to rights is purely academic. I wish to take the opposite position, in my humble way, to that point of view. We felt when the committee was sent to Alaska to hear testimony from the various tribes in the

Territory, in trying to establish their rights, this was the outcome of an order of our Government. We are not attorneys, we are ordinary laymen; we do not understand the procedures of Congress the same as you gentlemen do; however, we realize that this committee was sent from the seat of our Government to hear our complaints, and in that respect we went to a great deal of trouble and expense in trying to produce the witnesses that we felt would make the best presentation of our views—and I imagine it cost the Government a great deal of money to make this possible.

Now after the decision was made by the Secretary of the Interior in which a certain area was set forth for the various tribes, the three towns mainly by the order of Secretary Ickes and the area that was set aside by the Haas-Goldsmith report for future hearings, we feel that we have had at least made a minor progress in the direction that we felt would determine as to what rights we did have to the claims that we presented time and again. We feel the country belongs to us. Now, gentlemen, much to my surprise, when we get down here we are told not only by this committee but by the other departments that the ruling of Mr. Ickes is not valid, is not binding on the Government. Naturally to us laymen from the territory this seems very ridiculous, if I may use that word. The attorneys, as I understand it, advise the department heads as to the method of their procedure in legal respects. Now I am wondering here, since I listened to the discussions, just for what reason did not these attorneys advise Mr. Ickes at the time he instigated these investigations that he could not do this under the laws of the Government. There was nothing said to stop him. The hearings went ahead at great expense, as I said here in the past, and opposition was raised only after the decision was made by Mr. Ickes that we had rights to a certain area. That is puzzling to me as a representative of the tribes of the Territory.

As I stated in the beginning, I do not wish to go into detail as to why we feel we are entitled to it. It has been handed down through generations, as it has been stated before me, that we own certain areas and we respected the ownership of those areas. Even though there were no written agreements, we had certain boundary lines that were recognized. I happened to originate in one of the three islands that Mr. Johnson referred to here. I was fortunate enough to see my great grandmother. She told us about the rights our family had on that particular island. Those are the things we base our arguments on, and our possessory rights.

Gentlemen, I do not want to take too much of your time in this discussion. There are two more witnesses to follow me. However, I want to say this for the record: It is not our intention to block, as the headlines now show in some of the papers in the Territory, any industrial development in the Territory. We are of the opinion here, and we always have been since we arrived in Washington, that maybe there is a possibility of coming to some common ground where we can all agree to make this industry possible for Alaska. We are still of that opinion.

I think our attorney, our counsel here, explained fully and very ably the conditions that we wish to negotiate under. At two different times, through our discussion with the various departments we were very

hopeful. In other words, we were encouraged by the attitude of some of the departments, but the following day it had taken a different turn again.

Now, gentlemen, you might as well know we came down here on very limited funds, and now it is uncertain whether we can get back to our homes in 2 or 3 weeks, because the traveling conditions are very difficult. However, we agreed to stay here as long as we possibly could, in the hope that we could come to some sort of agreement with the various departments so the pulp mills could have the title they desire.

I want to reiterate here again, gentlemen, it is traditional that the native people of Alaska want to see a new industry come to the Territory, and also to be part of the Government, to help develop the Territory, and I think any man that is familiar with the people of Alaska will not deny that. Once you get the idea across to our people that it is a good thing to our Territory, they will get behind whatever it may be unanimously.

Now this is maybe off the subject a little, but I wish to relate something here to substantiate my statement in that respect. At the present time there is a great deal of controversy over the fish trap abolition. As you gentlemen know, the taking of fish by traps does not affect the native population alone. About two-thirds of the population—those are my own figures—within the area are whites, people who have seen fit to come to the Territory to establish their homes, and they are dependent on this particular industry for their livelihood, and that is fishing. They can see, after staying there for a few years, they cannot compete with this particular type of gear. Now I mention this because the Indians, under certain rights that have been set forth for them, could acquire some traps if they wished. However, they wish to sacrifice all of this and go along with the rest of the people of Alaska, the whites or whatever they may be, and ask for complete abolishment of fish traps. Gentlemen, I don't think that is selfishness on the part of the native people. We are anxious to do the right thing and we are willing to help to develop that Territory if Congress will help us along with it. That is all I wish to say.

Mr. ANDRESEN. Mr. Chairman, I would like to ask just one question. The CHAIRMAN. Mr. Andresen.

Mr. ANDRESEN. You mentioned certain possessory rights in your own family dating back to your great-grandmother.

Mr. PERATROVICH. Yes.

Mr. ANDRESEN. Can you give us some idea about how much land is involved in the rights you claim as the result of your great-grandmother's occupation of the land?

Mr. PERATROVICH. I could not give you the exact acreage. However, it is very easily traceable on the chart itself. Kuiu Island is quite a large island, as Mr. Johnson stated. It is rich in timber, mineral, and fish.

Mr. ANDRESEN. Would it involve a thousand acres of land or more?

Mr. PERATROVICH. I do not like to hazard a guess on it. I really don't know.

Mr. ANDRESEN. What is the size of the island? Is it a big island?

Mr. PERATROVICH. This is purely a guess, but I would say it is about 25 or 30 miles in length and perhaps 5 or 6 miles in width in the widest part of the island, or maybe a little bit more.

Mr. ANDRESEN. And that was occupied by your ancestors?

Mr. PERATROVICH. Yes; the Kuiu clan.

Mr. ANDRESEN. At the time the United States Government purchased the Alaskan Territory from Russia?

Mr. PERATROVICH. Well, that I could not answer either.

Mr. ANDRESEN. Is the land heavily timbered?

Mr. PERATROVICH. Yes; it is.

Mr. BARTLETT. Senator Peratrovich, do you believe the so-called 10-percent bill would be generally acceptable by the Indians?

Mr. PERATROVICH. I believe it will, with the qualifications our attorney presented here. In fact I would say they would go for it.

Mr. HILL. Mr. Chairman.

The CHAIRMAN. Mr. Hill.

Mr. HILL. Did you go to school in the United States?

Mr. PERATROVICH. Yes; I did.

Mr. HILL. Where?

Mr. PERATROVICH. I went to Chemawa, Oreg.

Mr. HILL. When you went to school did you study about the two colonies, the colony of Virginia that settled in 1609 and the colony of Massachusetts that settled in 1620? Did you study about the Thirteen Original States?

Mr. PERATROVICH. I studied about the Thirteen Original States.

Mr. HILL. Do you remember any stories about how they treated the Indians? That brings me along to Mr. Andresen's question. Did you learn how they paid for the land, how they took care of the Indians, and all that? Did you get any idea how they took care of the Indians?

Mr. PERATROVICH. I believe I did.

Mr. HILL. They did not ask where the boundary lines of the Indians came to at that time, as I remember. Massachusetts claimed their west boundary extended across the United States to the Pacific Ocean. I believe I have seen a map with Massachusetts claiming all the land entirely across the United States to the Pacific Ocean.

Mr. PERATROVICH. Yes.

Mr. HILL. I don't think there is any question about whether you can prove you own a certain piece of land. The question is how long you have been there and who had the right to come in and push you off.

Mr. PERATROVICH. In my case, I was born and raised on Kuiu Island.

Mr. HILL. It was not necessary to have a fence or boundary line; was it?

Mr. PERATROVICH. No.

Mr. HILL. That is what I want this committee to understand. We have done some things back in the early history of this country in pushing folks off just because they could not hold the land. I think it is about time Congress paid attention to the historical background of these folks in Alaska.

Mr. ANDRESEN. I will say to the gentleman I wasn't raising any point about the question I asked. I know the Indians claimed all of Minnesota, too.

Mr. HILL. They had a good right to claim all of Minnesota.

Mr. ANDRESEN. They did not have any boundary line. They settled it by treaty with the Government.

Mr. HILL. Pennsylvania was the outstanding territory that settled it without going to war with the Indian tribes.

Mr. GROSS. What kind of timber is on this land that you are referring to—on your land, for instance?

Mr. PERATROVICH. Spruce, hemlock, red cedar, and there is some yellow cedar.

Mr. GROSS. How large is this timber?

Mr. PERATROVICH. The spruce trees are the largest we have. I think on one particular island which is being logged off, Kosciuszko Island, some of the trees range 7 feet in diameter.

Mr. GROSS. They are tall, too?

Mr. PERATROVICH. Yes; they are large trees.

Mr. GROSS. Who is logging it now? Is there some company that is logging it?

Mr. PERATROVICH. I don't know if they are operating there now, but I saw in the paper just before leaving Alaska some company from Juneau got to logging in that particular area—the Juneau Logging Co.

Mr. GROSS. Your land is on an island; is it?

Mr. PERATROVICH. This particular island that I have reference to now is on the outside of the area that was recommended by the Haas-Goldsmith report to come in our area.

Mr. GROSS. It doesn't come in the Aleutian Islands?

Mr. PERATROVICH. No; the Aleutian Islands are 600 to 700 miles to the northwest.

Mr. GROSS. Are you near Anchorage?

Mr. PERATROVICH. That is still north of us. That is more in the interior.

Mr. GROSS. It isn't on the seaboard?

Mr. PERATROVICH. I have never been to Anchorage, but I understand you can get from it to Tongass in small boats.

Mr. GROSS. I have some boys from my home neighborhood in Anchorage at this time. Have you ever been around much in the Alaskan Territory?

Mr. PERATROVICH. The farthest north I have been is up to Cordova, Copper Center, and Chitina.

Mr. GROSS. Are there good roads there?

Mr. PERATROVICH. We have no roads in this particular area to speak of. In my case a man would have to go to Cordova, take a boat, then you take the old Copper River Railroad and you go to Chitina. That has been abandoned.

Mr. GROSS. Does it get cold where you are at?

Mr. PERATROVICH. It doesn't get as cold as in some parts of Montana.

Mr. GROSS. How does your climate compare with Anchorage, for instance?

Mr. PERATROVICH. As I stated, I have never been in Anchorage, but I have a lot of friends in Anchorage and they claim the summers are very warm. The winters, of course, are naturally cold—much colder than in our area. There is this difference: they claim it is a dry cold and ours is supposed to be damp.

Mr. GROSS. Is there any gold in your section of the country?

Mr. PERATROVICH. There are small claims staked here and there. There seems to be more copper than gold.

Mr. GROSS. How large is the largest town in your section of the country there?

Mr. PERATROVICH. I think about 6,000. That may be a little off. That is Ketchikan.

Mr. GROSS. What do the people do to live?

Mr. PERATROVICH. Fish, mostly.

Mr. GROSS. Mostly fish?

Mr. PERATROVICH. Yes.

Mr. GROSS. I guess that is about all.

Mr. HILL. Are the copper mines being worked at this time?

Mr. PERATROVICH. I think they began to resume operations in some of the mines.

Mr. HILL. Where does the copper go?

Mr. PERATROVICH. It is shipped to the States.

Mr. HILL. These States here?

Mr. PERATROVICH. The United States; yes.

Mr. GROSS. The copper ore?

Mr. PERATROVICH. Yes.

Mr. GROSS. They have no smelters there?

Mr. PERATROVICH. No; they have no smelters there. The nearest one is at Tacoma, Wash.

Mr. GROSS. Is it pretty rich ore?

Mr. PERATROVICH. Some of it is pretty rich; yes.

Mr. GOFF. Mr. Chairman, I think the witness understands we are not treating in this bill with the rights of the individuals, or trying to determine whatever the rights of the individuals or the Government may be, but what we are trying to do is to arrive at some equitable way that we can permit the rights to be determined by the courts or some commission that is appointed, or by act of Congress. Pending that time we may find some way to develop the timber resources of this area and still preserve the right to the proceeds of the timber that is taken off. What I have said here this morning was more to show that there are two sides to this question of the right to the land and to the timber, and what we are principally interested in is arriving at a fair way to permit the development of Alaska and still to leave the proceeds so if your people establish their rights they will have a right to their share of the proceeds. This bill asks only for the sale of vacant and unappropriated land; that is, land that no one is actually occupying. This committee would not presume to settle the matter—a matter that has had this long history of litigation and strife. I think it has been a good thing for you to come down here to effect a settlement, but unfortunately under the terms of the bill before us we could not make any determination. What we want is your opinion as to whether this bill does preserve your rights—that

is, your right eventually to establish whatever claim you have and at the same time permit us to go into Alaska and develop this industry there.

Mr. PERATROVICH. I think we tried to make ourselves clear in that respect. Our contention is that the present bill does not make our title clear.

Mr. GOFF. Unfortunately, I do not believe we can do it under this bill. I do not think the committee would be the forum before which those rights could finally be determined. I think certainly from the hearings we have had we could not make a fair decision.

Mr. PERATROVICH. It seems to me, Mr. Goff, the sooner we settle the title the better off the country would be for everybody concerned.

Mr. GOFF. I certainly agree with that.

Mr. GROSS. Are you through?

Mr. GOFF. That is all.

Mr. GROSS. Is there some land on this island on which your land is that nobody claims?

Mr. PERATROVICH. Yes; there is.

Mr. GROSS. There is land that nobody claims?

Mr. PERATROVICH. Yes.

Mr. GROSS. I hadn't read this bill until several days ago. The thing I don't like about it is the Government can go in and sell timber regardless of who owns it. I think you have done the right thing. How did you get your title and your claim to this land? That is due to the fact that your forebears were there; is that it? Did you inherit this claim?

Mr. PERATROVICH. According to our customs, I have the rights to that area.

Mr. GROSS. According to your customs you inherited this land?

Mr. PERATROVICH. Yes.

Mr. GROSS. From your parents?

Mr. PERATROVICH. Yes.

Mr. GROSS. You live on this island; do you?

Mr. PERATROVICH. Yes.

Mr. GROSS. How many people live on this island?

Mr. PERATROVICH. I think I better get you straight on that, Mr. GROSS. You speak of the original island that I came from, the Kuin Island, or where I live now?

Mr. GROSS. I am referring to the island where your claim is.

Mr. PERATROVICH. We happen to live now in Klawock, and under the Ickes decision there is only a small area set aside, and that is where I am living at the present time.

Mr. GROSS. You claim a certain part of the island is yours by virtue of inheriting it from your parents?

Mr. PERATROVICH. Yes.

Mr. GROSS. You say there is land on the same island that nobody claims. Don't you think when the time comes there will be some dispute about it, if there are no lines run out? In Pennsylvania we have cornerstones, we know what is what and who owns which. When somebody came in there to straighten the matter out, to make a treaty of sale or what have you, we had some boundary markings. Don't

you think somebody will make a claim to all the island? What will prevent anyone from making a claim for all of it?

Mr. PERATROVICH. I would like to qualify the statement I made about some areas not being claimed. According to our belief, and as I stated, handed down through generations, we own all of the area. You understand, Mr. Gross, there are at least five or six different tribes in this particular area that I am living in and each one of the tribes claims certain other areas, salmon streams, and so forth.

Mr. GROSS. Are you an Indian?

Mr. PERATROVICH. Yes, I am. I am a half-breed, and according to Congress, anyone with a quarter Indian in him is considered an Indian.

Mr. GROSS. Thank you.

The CHAIRMAN. We thank you very much for your statement. The next witness will be Andrew Hope.

STATEMENT OF ANDREW HOPE, MEMBER OF THE HOUSE OF REPRESENTATIVES OF ALASKA

Mr. HOPE. My name is Andrew Hope, of Sitka, Alaska. I belong to a native organization known as the Alaskan Native Brotherhood. I am also a member of an organization of Indians under the IRA, a member of the Alaskan Legislature, but not serving in that capacity here.

I think I am lucky to be almost the last to speak. We are more or less in the same boat as the rest of the delegates here, and I can only confirm the statements they make. We can make it very short.

My people up there are certain they own lands even this minute, even if no one else owns lands; and they further believe they own lands because of the action of the Secretary of the Interior. The question is do they own any of it. They believe they do.

We came to Washington knowing that there already have been several propositions brought before Congress in the way of drafts—I would not say Congress, probably, but before various departments, that a bill be made so that industry may come to Alaska. We are not opposed to the industry coming. It may be a good thing. It seems to me that efforts ought to be made to make it as easy as possible for industry to come to Alaska, and while they are doing that we might just as well strengthen the Indian claim, or protect what he has.

We came here knowing that there was already a resolution before you. One of the last propositions the people up there thought was not the right thing. They learned of this 10-percent proposition. In a short time they thought it would be more favorable to the people up there. While we are here, we thought with our presence before the various departments that have to deal with the subject, we might help to improve the changes that might affect the Indians also. I don't know whether the efforts of Mr. Curry here have been rejected as yet. I feel they did not make very much headway.

I am opposed to the present resolution as it is, and we have made offers for a change through our attorney. I don't think there is much more I could say, except the Indians up there, I repeat again, feel

they own the property and that no one should sell any part of this property without their consent.

Mr. GROSS. Mr. Chairman.

The CHAIRMAN. Mr. Gross has a question.

Mr. GROSS. Is there land sold up there? Are there land transactions on this timberland, or is it just laying there in these families who claim it, or the individuals who claim it? Does anybody ever sell his holdings to another man?

Mr. HOPE. No, they haven't; not in the way of timber. Timber has been cut before for lumber purposes.

Mr. GROSS. You mean to say some of your land has been logged off?

Mr. HOPE. We never have received any payment for anything that I know of.

Mr. GROSS. Are you in a little town?

Mr. HOPE. I live in one of the first lodges in Alaska known as Sitka, Alaska. The natives that were there were Indians. We don't care what you call us, whether Indians, natives, and so on. The town has grown around the village.

Mr. GROSS. You say the natives devote their time to fishing. Do they claim they own a piece of land there?

Mr. HOPE. They do.

Mr. GROSS. In other words, they all feel they have got some land out there, even though they could not use it for any other purpose?

Mr. HOPE. They use it for cordwood or for fuel purposes. Whenever there is a demand for it they get some.

Mr. GROSS. Where do they sell it?

Mr. HOPE. Locally.

Mr. GROSS. It seems to me in a country like that anybody who wants a load of wood can go out and get it and there would not be any sale for it.

Mr. HOPE. Was that a question?

Mr. GROSS. I say it seems to me in a country like that there would be no sale for fuel wood. Anybody that claims land, that doesn't raise anything on it, they would just go out and cut a cord of wood.

Mr. HOPE. What I mean is in times back, when there was a demand by other people. For instance, I have some land and I have some trees on it, I could cut cordwood and sell it to you and in that way get a little money.

Mr. GROSS. You could sell it, but I was wondering where the buyers came from.

Mr. HOPE. There are Russians and other people.

Mr. GOFF. Basically your opposition to the bill is that it simply defers the decision on who actually owns the land there and it doesn't make a settlement of the various claims to it; is that right?

Mr. HOPE. We claim we hold some land legally, but this new bill disregards anything we have, so I feel it is a set-back.

Mr. GOFF. This bill says:

Nothing in this resolution shall be construed as recognizing or denying the validity of any claim of possessory rights to lands or timber within the exterior boundaries of the Tongass National Forest.

Your opposition to the bill is that very language, is it? You would like to see the question determined before any sale is made?

Mr. HOPE. Yes.

Mr. CURRY. Mr. Goff, may I say something there?

Mr. GOFF. Yes.

Mr. CURRY. I think the bill in those words does not settle anything, but as Congressman Gross says, it is inherent in the bill itself that the Indian rights are completely disregarded. They are not treating this as owned by these people, as long as they can go in and cut timber off without their consent.

Mr. GOFF. If they do have valid title then it is an infringement by anybody to cut it down even though the proceeds may be retained. I will agree with that part of it.

Mr. ZIMMERMAN. They can sue somebody for damages, or double damages, and it might be even threefold if they own the land.

Mr. GOFF. I don't think they could sue the United States, because the United States would be granting the right to come in there and cut the timber off. The only difficulty it seems to me we are faced with is that it seems obvious we cannot make a final determination in the committee as to the rights, therefore we have to arrive at some way that is fair to the conflicting claimants while at the same time permitting the Territory to be developed.

The CHAIRMAN. It is after 12 o'clock. The bell might ring at any time and the committee will have to adjourn. We have one other witness. I think this legal situation has been very fully developed.

Mr. HOPE. Mr. Chairman, allow me to go into just one other little feature. If these areas are set out right it would allow the Indians to turn this into the employment of manufactured things in a small way, which would not interfere with the regular pulp operation. At least we ought to be able to use some of the resources. I believe they could do it. We consider anything that would not interfere too greatly with the pulp industry would be helpful to the Indians. I make this statement knowing that the Indians has certain handicaps to get employment in most cases. In the second place, he is a fisherman by nature and it would take him a long time to get over that. So in working in an all-year-round project he is disqualified, because he must go fishing.

The CHAIRMAN. We thank you very much.

Mr. BARTLETT. I would like the record to show Mr. Hope is a member of the Alaskan Territorial Legislature. He has been elected several times.

The CHAIRMAN. We are glad to have that in the record. The next witness is Mr. Fred Grant. We will be glad to hear from you, Mr. Grant.

STATEMENT OF FRED GRANT, REPRESENTING THE TOWN OF HYDABURG, ALASKA

Mr. GRANT. Mr. Chairman, my name is Fred Grant, Sr., representing the Haida Tribe in Hydaburg, Alaska. Since there have been questions asked in the past about our being Indians I would like to indicate for the record that Lucky War is my Haida name.

We have problems of different kinds in our towns, and now at this time the fishing is going at its peak. Since this important question

has come up, calling a meeting and asking me to represent them, although I did not have the time to go, knowing that it was so important I had to leave as a representative of the Haida group. From past experience, although claiming a certain area of that part of Alaska, we had some very hard problems on the different things being taken from that area. Although the Ickes decision held the people had a right to own that piece of Alaska, still, after Ickes' decision had been made, there were permits given to different logging operators, to permit them to take certain sections of timber out from that area, which went on up along the coast, and right now there are different logging companies operating in that area. The Haidas are a law-abiding people, so although it is hard to take that standing up, it is what we call a very rich timber country.

Since logging had started in 1917 it has been going steadily from that area. I have no idea as to the amount of timber that has been taken out.

We also have a lime quarry in that area, where the big companies have hauled the lime down to the States. It is operated by the Diamond Cement Co. All that is going out of that section of the area, yet there has been no complaint made by the Haida Tribe. Now since we are asked to appear before you Congressmen we are glad to state all this time that this has been going on there has been no white man that has been scalped for taking all this out of this area. So since the time is short, I think I will close.

Mr. GROSS. I would like to ask a question. That lime company, do they operate the year round?

Mr. GRANT. Just during the recent part of the season.

Mr. GROSS. If it gets too cold it freezes up the lime?

Mr. GRANT. Yes.

Mr. GROSS. How many months a year do they operate?

Mr. GRANT. I imagine they operate 3 or 4 months out of the year.

Mr. GROSS. What kind of lime do they ship out of there?

Mr. GRANT. It is a lime that they use for making concrete, and so on.

Mr. GROSS. Do they burn it there?

Mr. GRANT. No; they make concrete out of it for pavements and buildings, and so on.

Mr. GROSS. Then they make cement?

Mr. GRANT. They make cement.

Mr. GROSS. They do not ship lime. It is a cement plant; is that right?

Mr. GRANT. That is right.

Mr. GROSS. Whenever you have a land transaction is land transferred by the acre? Do you know what an acre of land is?

Mr. GRANT. I have no idea. I have never learned about acres. Up in that country we never bother about acres.

Mr. GROSS. It is just a tract of land?

Mr. GRANT. It is just a tract of land.

In conclusion I would state I give the opinion of the people from my part of the country, since we have a chance to oppose this bill on the ground that it doesn't give any compensation which the people would like to have, so I was asked to oppose this bill on that ground.

They want to have some understanding, because it has been going on so many years, and the time has come that they should get something out of that section of the country, some compensation that is fair and just.

Mr. GROSS. You said that the fishing is on now. Do they fish the year round?

Mr. GRANT. Trolling is almost the year round, but seining they can do only for 30 days or so.

Mr. GROSS. I think that would be one place for these fishing Congressmen to go to. I never fished in my life, but some of these fishing Congressmen should find out about this fishing.

Mr. GRANT. That is true. We would be glad to see some of the Congressmen up there, to see them enjoy fishing.

Mr. GROSS. I am for that.

The CHAIRMAN. The committee may accept the invitation.

Mr. GRANT. You can hunt in that area too, before the timber is all taken out of there.

Mr. GROSS. Have you large game there?

Mr. GRANT. Black bear we have, but they are kind of tame and we don't bother them because there is hardly any value to the pelt. You can also take pictures of them, or movies too.

Mr. BARTLETT. Have you lived all your life in Alaska?

Mr. GRANT. I was born in Alaska.

Mr. BARTLETT. What attitude do you think your people would take regarding the 10-percent bill, where they would get 10 percent in cash from the proceeds of the timber cutting? Do you think they would approve of that bill?

Mr. GRANT. They would approve of the bill, and title to the land given to them.

Mr. BARTLETT. They are anxious to have a pulp industry in there, aren't they?

Mr. GRANT. They are anxious; yes.

Mr. BARTLETT. They want to do everything within reason to bring that in?

Mr. GRANT. Everything possible to put it through; yes.

Mr. BARTLETT. That is all.

The CHAIRMAN. Of course the 10-percent bill would not really settle these questions you have been talking about, as to the land ownership, would it?

Mr. GRANT. I did not understand.

The CHAIRMAN. If we pass the 10 percent bill, we still would not settle these questions about who owns the land, would we?

Mr. GRANT. I will leave that to our counsel here to answer.

The CHAIRMAN. You are a very smart man.

Mr. GROSS. What percentage of your people are Indians? Half of them? I mean the people that live in the big area there.

Mr. GRANT. Most of them are Indians.

Mr. GROSS. Most of them are Indians?

Mr. GRANT. Yes.

Mr. GROSS. Then you have to deal with them on the tribal basis rather than on the individual basis?

Mr. GRANT. It has to be on the tribal basis; yes.

Mr. GROSS. I don't think that would be so difficult, would it?

Mr. GRANT. No. They all cooperate in that area, all the Indians as a whole.

Mr. GROSS. There are some people that came in there in the last 20 years that bought land?

Mr. GRANT. Some just lease. Take Fox Island—they just lease that.

Mr. GROSS. For what would they lease it?

Mr. GRANT. That I don't know. There was a permit, I believe, to them to log that place off—is all I know.

Mr. GROSS. That is all.

The CHAIRMAN. Do you have some further questions?

Mr. BARTLETT. No questions.

The CHAIRMAN. We thank you very much.

Mr. CURRY. Mr. Chairman, Mr. Sutton has advised me this morning he would not be able to get here. He is the representative of the Indian Rights Association. I would like permission for him and the other witnesses to file a written statement, if there is anything that they might have left out.

The CHAIRMAN. Without objection, that may be permitted. Let the Chair say before any members of the committee leave we are going to have a short executive session this afternoon at 2 o'clock on some other matters, not on this matter.

Mr. CURRY. May I express my appreciation on behalf of the communities for the tolerance of the committee, and especially the chairman, in suiting their convenience to ours in connection with these hearings.

Mr. BARTLETT. I would like to submit for the record a copy of a telegram sent to me by Governor Gruening, of Alaska, endorsing House Joint Resolution 205.

I should likewise like to submit for the record a copy of a letter addressed to me by Mr. Murchison, the mayor of Metlakatla, Alaska, endorsing the 10 percent bill.

The CHAIRMAN. Without objection, they will be admitted.

(The telegram and letter are as follows:)

[Telegram]

JUNE 25, 1947.

E. L. BARTLETT,

Delegate to Congress, Washington, D. C.:

Alaska Development Board now in session at Juneau emphatically supports and urges passage House Joint Resolution 205. Please bring our position to attention in appropriate congressional quarters and emphasize our belief that if bill does not pass at this session Alaska pulp and paper development will be seriously retarded and perhaps lost entirely, with disastrous consequences to progress of Territory as well as serious set-back to development of adequate newsprint supply for Nation. Study of timber situation and of possessory rights status convinces us proposed bill best solution to problem and does not injure whatever rights may exist. People of Alaska unanimous in favor of long-overdue pulp development. Bill is in best interests native as well as white residents of Alaska.

From—

ERNEST GRUENING,
Governor of Alaska, Juneau, Alaska.

COUNCIL ANNETTE ISLANDS RESERVE,
Metlakatla, Alaska, June 30, 1947.

HON. R. L. BARTLETT,
Delegate to Congress from Alaska, Washington, D. C.

DEAR MR. BARTLETT: With reference to the bill now pending before Congress concerning the sale of timber in the Tongass National Forest, I wish to request that you incorporate in this bill that the native Alaskan Indians receive 10 percent of the sale, the money derived from the sale to be deposited in the United States Treasury and to be expended for the benefit of the Indians under the supervision of the Bureau of Indian Affairs.

Please contact Senator Peratrovich and his associates and advise them how we feel about this bill and that we pray that their mission will be a success.

All the members of Annette Islands Reserve to whom I have talked favor House Joint Resolution 205 but would like to have the 10-percent clause incorporated.

Very sincerely,

HERBERT J. MURCHISON, *Mayor.*

MR. BARTLETT. I should also like the record to show, in case it does not already reflect the fact, that the previous witness, Mr. Peratrovich, is a member of the Alaskan Territory Senate.

The CHAIRMAN. The record will so show.

STATEMENT OF CHARLES F. BRANNAN, ASSISTANT SECRETARY OF AGRICULTURE

MR. BRANNAN. There have been two or three things testified about today, by Mr. Curry in particular, and there has been offered in the record a proposed substitute for House Joint Resolution 205 about which we would like to have a brief opportunity to express our point of view to the committee, and at least to put before the committee the reactions of the two companies who are now contemplating bidding on going into this territory. They have both had an opportunity to study this bill and have concluded they could not operate in Alaska under a bill of that character and have put those statements in writing for the benefit of the committee. I think it highly important that at least that particular information be brought to the attention of the committee. I think both letters also endorse House Joint Resolution 205.

The CHAIRMAN. Do you have those ready to present at this time?

MR. BRANNAN. We do have them here available.

(The letters referred to are as follows:)

THE PUGET SOUND PULP & TIMBER CO.,
Bellingham, Wash., June 30, 1947.

MR. LYLE WATTS,
*Chief, Forest Service, Department of Agriculture,
Washington, D. C.*

DEAR MR. WATTS: The Puget Sound Pulp & Timber Co., State of Washington, which I represent, is very much interested in House Joint Resolution 205, now before the Committee on Agriculture of the House of Representatives.

My company, which has been making an intensive investigation of the possibilities for the manufacture of pulp and paper in Alaska, has studied this resolution and is convinced that it should be adopted substantially as introduced. Also, the sample form of contract drafted by the Forest Service is satisfactory to us.

We believe no pulp and paper company could afford to risk the establishment of a plant in Alaska until the cloud represented by possessory Indian claims has

been removed. We think the resolution, if adopted, would accomplish that purpose and at the same time fully protect the public interest in the timber resources to be purchased for the project; certainly my company does not feel that it could submit a bid on any timber advertised for sale if patents were granted to the lands from which there is to come any substantial portion of the huge timber unit needed for the operations. Various land ownerships would greatly increase operating costs and give rise to serious administrative difficulties and confusion.

Time is an extremely important factor in this project insofar as my company is concerned. We therefore strongly urge that House Joint Resolution 205, or similar legislation to extinguish the Indian rights and provide for equitable compensation for the loss of any such rights, be passed at this session of Congress.

Respectfully yours,

JOHN P. VAN ORSDEL.

JUNE 30, 1947.

MR. LYLE WATTS,
Chief Forester, Department of Agriculture,

Washington, D. C.

DEAR MR. WATTS: Mr. Carl L. Swenson and the writer have studied House Joint Resolution 205 and wish to affirm our position as stated in our telegram of June 13, 1947. The D & F Co. could carry on a practical pulp-manufacturing operation under the provisions of House Joint Resolution 205.

We have further studied a proposed revision of House Joint Resolution 205 which would allow the Indians to patent 10 percent of the land of the Tongrass Forest. While we have no objection whatever to the Indians getting compensation from the Government for such rights as they may establish under the law, we seriously doubt that any responsible group would undertake a pulp and paper development under the proposed revisions; certainly the D & F Co. would not care to do so. The patent of the lands would raise many obstacles from a practical operating viewpoint.

May we again point out the necessity of getting legislation passed as soon as possible to enable a pulp and paper industry to start in southeastern Alaska; we may lose our present market and jeopardize financing.

Very truly yours,

L. M. MITCHELL, *Vice President.*

MR. BRANNAN. Might I be clear on the first point, Mr. Chairman? Will there be an opportunity for any further hearings on this, or are you intending to conclude them at this date?

THE CHAIRMAN. It is not the intention to close the hearings at this time. I don't know whether a further hearing is necessary. I think probably the committee would want some more information from the Department of Agriculture and the Department of the Interior also on the question, so we are not closing the hearings at this time, but I cannot say just when we will resume the hearings. The House is adjourning today over until Monday, so we will not have a committee meeting tomorrow. It will be sometime next week before we resume the hearings.

MR. BRANNAN. Mr. Chairman, Mr. Granger, who has discussed these proposals with the proposed pulp and timber operators, has the letters in his possession and can explain them, introduce them, or offer them.

THE CHAIRMAN. I wonder if it is better to do it now or wait until we have a larger attendance of the committee. I think perhaps, unless you have some reason why you want to offer them at this time, it would be better to present them at a later meeting of the committee.

MR. BRANNAN. I think it would be better, Mr. Chairman. I do not want to run the risk of having the matter considered without having this material before the committee.

Mr. GRANGER. Mr. Chairman, if I might add a word to what Mr. Brannan said, when we introduce these letters it will become evident that these two concerns, which are ready to make bids on our Alaskan offerings, have again stressed the importance of prompt action, because they have reason to fear that the market and economic conditions that are now favorable may not endure indefinitely and that postponement of action will not enable them to go in with a feeling of security, and it may mean a very long postponement of any operations of this nature in Alaska.

The CHAIRMAN. The committee will adjourn.

(Whereupon, at 12:20 p. m., the committee adjourned.)

TONGASS NATIONAL FOREST

WEDNESDAY, JULY 9, 1947

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D. C.

The committee met at 10 a. m., Hon. Clifford R. Hope (chairman) presiding.

The CHAIRMAN. The committee will come to order. We have met this morning to give further consideration to House Joint Resolution 205. I am going to call on Assistant Secretary Brannan first, to make such statement as he cares to on behalf of the Department of Agriculture.

STATEMENT OF HON. CHARLES F. BRANNAN, ASSISTANT SECRETARY OF AGRICULTURE

Mr. BRANNON. Mr. Chairman and gentlemen of the committee, I am going to do my very best to make our point of view with respect to this item of legislation as brief as possible. As a matter of fact, the committee has heard from the Department of Agriculture with respect to the bill, and our views as previously expressed on those occasions remain the same. In short, they are to the effect that we are in favor of House Joint Resolution 205 and think that it is designed to accomplish the purposes which are in the best public interest, and certainly we feel it will not work any hardship on those who claim some interest in the forest lands.

I would just like to outline briefly two or three salient points, because, during the last session at which I was present, at least, it seemed to me there was a considerable amount of confusion getting into the thinking of all of us—there were a lot of collateral matters being brought in for discussion.

The interpretation of the Miller case, on which we have done some additional work, Mr. Goff—and certainly we are not prepared to delineate all of its possible ramifications—has been considered as length. The Ickes report and Haas-Goldschmidt report have been represented here from various points of view. All of which has created a certain amount of confusion, in the minds of some of us, at least, and I take the liberty of suggesting that there possibly may be some confusion in the minds of the committee members.

The simple objective that we are all attempting to accomplish by this legislation is to proceed with the settlement of Alaska in the

public interest. There are reasons known to everybody concerned, which do not need to be referred to, why we ought to do as much as we can to immediately settle Alaska and integrate it into the national economy.

Second, the development of a remaining major paper-pulp resource of the country is a controlling factor. There is in these lands in southeastern Alaska, in the Tongass National Forest, one of the remaining important reservoirs for paper pulp in the country. While there has been considerable effort over the period of the last 8 or 10 years to develop those resources, it necessarily went into a state of suspension during the war. Since the war we have been putting forth tremendous effort to try to get industry developed and the groundwork laid for the use of those forests.

The third thing which is involved is the protection of the rights of the individuals who have some claims, or who at least assert some claims. The character of those claims, referring briefly to the Miller case and to previous decisions, and even to Mr. Ickes' statements, are very complicated. It is not clear to us in the Department whether or not all of the claims are claims of tribes or claims of villages within tribes, claims of families which are either parts of villages or of tribes, or claims of individuals. We have heard, and this committee has heard, expressions of claims of each and every character. It is inconceivable that many of those claims will not be overlapping, that they will not actually attach to the same acre of ground. Therefore, the problems involved in disentangling and adjudicating them properly is one which, it seems to me, cannot be done by the committee under any information that we are able to furnish the committee at this time or any information that we know anything about. Going back to the objective, the thing we are trying to do with House Joint Resolution 205, Mr. Chairman, is simply to lay the groundwork for the invitation to people to come in to develop the pulp and timber resources of the forest.

I would like to make one point, which is of an argumentative character but apropos of that particular situation, and that is the statement which has been made by various representatives who appeared before the committee, and Mr. Curry in particular, to the effect that what we were doing here was simply taking this property, be it public or private property, of these claimants and turning it over to another private individual. I would like to point out that the assertion is based upon the fact that we intend to lease some of this property for pulp operations. I would like to remind the committee that many resource uses within the national forests are under some kind of lease or sales contract with private concerns. In other words, the Federal Government does not, itself, cut the national forest timber and sell it. Whenever it is deemed advisable to cut a tract of timber from the national forests, invitations to bid on the cutting of that timber are issued. Private citizens bid on it, an award is made, the contract is given to a particular person, and he does the work. In short, what we propose to do in Alaska on the Tongass National Forest, under contracts with the pulp mill operators, has complete similarity with the type of operation which goes on within the United States; also the kind of settlement of title which we are asking be done in order

to make it possible for the Department to give leases to pulp operators to go into the Tongas National Forest, is exactly the type of operation which we carry on in the United States when we go out and either buy additional areas which are in undisputed private ownership to add to the national forests, or condemn some lands which are essential for some public purpose and later on, use them in the over-all operations of the forests. There is nothing really new or different about the type of proposal suggested here when considered in the light of the types of operations which the Department, or the Forest Service, now carries on within the United States.

Mr. ANDRESEN. May I ask a question?

Mr. BRANNAN. Yes.

Mr. ANDRESEN. Of course in the United States, as a rule, there is no question over the title to land within the national forest. It either belongs to the Government through acquisition or it belongs to private parties. The land that you deal with in selling timber through these contracts on a bidding basis, that is land that definitely belongs to the Government and there is no question over the title.

Mr. BRANNAN. Mr. Andresen, that is perfectly true, with these exceptions: There is every year being bought and added to the national forest additional timberland. There are being acquired for national forest purposes sometimes by condemnation proceedings, additional lands the strategic location of which makes it necessary to the proper operation of the forest. In other words, we do take lands by condemnation on some occasions and add them to the forest, when the addition is in the public interest. There is a complete similarity, I respectfully submit, between that and the claims of the Indians in this case. If the Indians actually have good claim to this land, then a method or manner of liquidating those claims and paying the Indians in cash is what is being suggested to the committee. It is entirely similar to moving in by condemnation and doing the same sort of thing.

Mr. ANDRESEN. There is one problem in connection with the Alaskan situation that troubles me, and I think troubles most members of the committee, and that is the land at the present time and the timber on it is worth a whole lot less now than after you begin with this development and consequently if claims are settled later in favor of the natives and Indians it will involve a great deal more money than if that settlement can be made now.

Mr. BRANNAN. Well, Mr. Andresen, our feeling about that is that the courts, or whoever makes the final awards in these types of cases, will have to take all of those factors into consideration. I think they will have to take into consideration the long-range value of the land as well as the immediate value of the timber on the land. The converse, if you recall your experiences with condemnation proceedings, is wherever the effort of the public agency results in a benefit to the person whose property is being taken, that benefit is offset against the amount of money which is due the private individual whose property is being taken, and I would assume a similar type of reasoning would be applied by the courts or the Department of the Interior, whoever shall eventually be vested with the obligation to determine the specific rights of the Alaska claimants.

Mr. ANDRESEN. Either the Indians have valid claims or they have no claim at all. Of course that is a matter that will have to be determined eventually by the Congress or by the courts.

Mr. BRANNAN. That is the very point of House Joint Resolution 205. It leaves that problem to be settled at a later date, but does not suspend the development of Alaska or the development of the pulp and paper industry there until we can get all those problems settled. I assure you, from my brief knowledge of it, it is a most complicated case, and if we wait until we get it all settled it will be a long time before there is any major development in Alaska.

Mr. ANDRESEN. It may be an expensive affair, because it was testified here that the receipts you take in from the sale of that land and timber will not go very far in settling the claims.

Mr. BRANNAN. Well, the receipts we take in in 1 year probably will not, but it all depends upon the value of those claims. After all, there is a very close relationship between them. The claims certainly cannot be any greater than the value of the timber, and we are going to do our utmost in these contracts to get the best possible price for the timber.

Mr. ANDRESEN. If you can get that stipulated, that the value of the claims will not exceed the receipts from the sale of the timber, we will have something definite to go by as to what the Indians will receive.

Mr. BRANNAN. Mr. Andresen, we cannot stipulate it, I do not think, because it is really the prerogative of the court to determine the value of the claims, taking into consideration all of the evidence offered by the proponents and opponents of the taking.

May I read something to you which is apropos of this. There has been another point of view which bears on this particular matter which seems to add to the confusion; that is, that the Ickes report has actually settled the question as to whether or not the Indians own this land and whether or not they are entitled to go in and take physical possession of it. I do not think Mr. Ickes intended to go to that length. I would like to read this excerpt from the Ickes decision of July 27, 1945 on claims of natives of Hydaburg, Klawock, and Kake villages. This is the quotation:

The Indians of Alaska have every reason to expect that the Congress and the Department will be equally solicitous to respect their rights in the land they have thus far retained for their own use, and that if the public interest should now or hereafter require that any of these retained lands be withdrawn from Indian ownership this will be done only under appropriate legislation which assures adequate compensation for that which is taken from them in the interests of a wider public.

Again Mr. Ickes, in a letter on December 24, 1944, which appeared in the New York Times, said this:

If the protests of the Indians are upheld, it seems to me that the only way that a square deal for all concerned—the Indians and the non-Indians—can be achieved would be through the payment of some reasonable compensation to the Indians in order that their rights would be extinguished and, on the other hand, the assuring to the fisheries and to the non-Indian fishermen and cannery operators the right to operate.

In other words, Mr. Ickes contemplated the extinguishment of these alleged claims, because he says in the same letter:

I trust that the Congress may take the lead in remedying this deficiency and may devise some statutory mechanism whereby Indian titles in Alaska can be finally extinguished where necessary upon the payment of satisfactory compensation to the Indians concerned.

In short, what I think Mr. Ickes was thinking, what we all think eventually it will have to come to, I respectfully submit, is that in order to determine the interests of everybody concerned on a proper, sound, and equitable basis, the rights of the Indians must be converted into cash, and the full and adequate cash value thereof paid to the proper owner, and that is all that House Joint Resolution 205 proposes.

First, it proposes that we settle the question of the right of the people to go in and take the timber, thereby making it possible for the country to be developed; and for setting the groundwork for the pulp industry and all the related things that come along with big industry of that character; secondly, it leaves for further determination the manner in which the compensation for the taking shall be made and to whom it shall be made. Again I say, if there is anything which can be drawn out of the Miller case it is that there is ambiguity about who owns what and who has the right to assert these various claims.

Mr. ANDRESEN. I believe that was evidenced the other day by a witness who said that his grandmother lived on an island. I think the island was 30 miles long and 4 or 5 miles wide. Now he moved off the island. It seems to me as though that change of residence on his part—if he ever lived there—would rather extinguish his claim by abandonment. His grandmother might have had constructive possession, might have had a little cabin on the island, but certainly it goes pretty far to recognize the title of ownership in her descendants for the entire island after they moved away from it.

Mr. POAGE. Going back to the question you raised a while ago, you notice in the Senate bill it specifically provides that "there shall be an opinion of the court having jurisdiction," and so forth, "to recover such sum, if any, in addition to the amount paid under subsection (a) due any tribe or village." Subsection (a) divides the money you get out of the sale of timber. This section provides for additional payments. You simply raise the question as to whether there is any limitation on the amount to be paid out of the proceeds from the sale of the timber.

Mr. ANDRESEN. If the Indians have title to the land and develop it, the value of it increases as against the present-day value.

Mr. POAGE. Doesn't it then follow, or at least wouldn't it be the part of wisdom that we come to some compromise solution? We were talking with one of the representatives of the Indians and thought we might work out a plan whereby we might make a settlement with them. It was suggested that they accept one-tenth of the proceeds and give us a quitclaim to all of their rights. Might it not be good business to make that settlement now? I always found it was better to trade before the development came. After all, nobody ever will be able to work it all out. We ought to make the best trade we can with them.

Mr. ANDRESEN. That leads up to the next question about condemnation proceedings. It is customary, at least in the continental United States, where any individual may have a shade of title to a piece of

land, that you go into court and either quiet title to the land after following the legal procedure to extinguish the claims, or the Government would go in by condemnation proceedings. Has your Department thought anything about a procedure of that kind?

Mr. BRANNAN. Yes, Mr. Andresen. There are three or four cogent reasons why we cannot move by condemnation. The controlling one, for the purpose of discussion this morning, is it would take so long to conclude the condemnation proceeding that it would be futile to talk about it as a means of clearing the way for getting the pulp industry to move into Alaska.

The other factual reasons are, of course, that the Government cannot start condemnation proceedings until the Congress has appropriated the money for the particular taking, and until there has been a definition of the general area to be taken and the purposes for which it was to be taken. In short, what would be done by a condemnation proceeding is the kind of thing which the committee would, as the next step after House Joint Resolution 205, undertake and consider. We cannot move by a condemnation proceeding because we are not authorized to and because there are no funds to pay any award in court at this time. If the committee wanted to go into the question of how much should be appropriated for an award you then have immediately introduced yourselves into the whole question as to whose claims are good, what are the character of the claims, and all the rest of it. In other words, we are back to the secondary basic problem which confronts the committee namely the question of laying the machinery and groundwork as Mr. Ickes said for determining the rights of the specific individuals and the value thereof.

Mr. ANDRESEN. You can see what we are trying to avoid here. It is estimated that the Government will take in about \$2,000,000 from the sale of this timber and land. We can see the possibility of the claims totaling \$15,000,000 to \$25,000,000 if the court should approve the title as being valid, or maybe more than that. Nobody can estimate the value of those claims. What I had in mind is to try and fix things so that certainly the claims would not exceed the amount that the Government receives from the sale of the timber and the land.

Mr. BRANNAN. May I make one suggestion about your statement that there is only a \$2,000,000 income? There will be almost \$2,000,000 of income every year after these pulp operations get going, and that will be a continuing process, indefinitely, as far as we are able to judge the ability of that forest to produce now.

The second part we want to speak to is the matter of the magnitude of the claims. I cannot possibly imagine the magnitude of the claims exceeding the value of the thing taken. I know in your mind there is a question of timing here; that the taking is as of a time when the value is low and the awards made as of a time when the value is high. I am sure, from my small experience in the law, that the courts at least have a process for equalizing that out. So that would not be too serious a problem for the courts to determine.

Mr. ANDRESEN. I have generally found when the Government steps in to take or condemn a piece of land the value goes up.

Mr. GRANGER. Do you agree with the statement you just made, that if you are going in there to cut the timber off you are going to increase the value of the land?

Mr. ANDRESEN. I don't mean the land that is immediately taken. The timber on that land I don't suppose would increase in value, but the timber on the land adjacent to the cuttings, and the land where the timber has been removed will increase in value.

Mr. GRANGER. I assume this is a heavily timbered area and that all it would be used for is timber.

Mr. BRANNAN. That is correct, Mr. Granger.

Mr. GRANGER. You would not change the use of it by taking the timber off.

Mr. BRANNAN. The terrain, the climate, and all of the other factors strongly indicate to us that there will never be any agricultural possibilities in this area at all. There will never be any use for this land other than timber uses, except perhaps some game and hunting in very limited areas. The terrain is pretty rugged and it is doubtful whether the Indians frequently, if ever, set foot on much of the land that they are claiming now, at least for any income purposes—maybe for some slight sporting purposes, but not for income purposes.

Mr. C. M. GRANGER (Forest Service). Mr. Chairman, may I amplify this subject as to the value increasing?

The CHAIRMAN. Yes.

Mr. C. M. GRANGER. Under the contract which we propose to enter into, the stumpage value of the national forest timber will be fixed for a term of 10 years. It will not change for the period of 10 years. Within that time we all hope that this Indian claims matter will have been disposed of finally. I think it is the general understanding among the Government departments involved that by the next session we will be ready with a proposed form of legislation which will enable the relatively speedy determination of these Indian claims. But the value, Mr. Andresen, as far as the Government selling timber is concerned, will be fixed at least for 10 years. So there will not be an opportunity for any substantial accretion after the Government undertaking.

Mr. ZIMMERMAN. I would like to ask this question.

The CHAIRMAN. Are you directing your question to Mr. Granger?

Mr. ZIMMERMAN. That is right.

The CHAIRMAN. All right.

Mr. ZIMMERMAN. This contract that you mentioned: Does that provide for the orderly marketing of the timber so that the forests will not be exploited to the point where it will destroy the forest? In other words, you will market timber that is ready for marketing and permit the other timber to come on so it will be a continuing development of the area?

Mr. C. M. GRANGER. That is right.

Mr. ZIMMERMAN. Is that part of the program?

Mr. C. M. GRANGER. That is right.

Mr. ZIMMERMAN. In other words, you are not going to permit them to go in there and slash the timber and clean it off?

Mr. C. M. GRANGER. No; quite the contrary. The entire operation will be constantly under the control of the Forest Service.

Mr. ZIMMERMAN. There will be an orderly marketing of timber that is ready to be cut?

Mr. C. M. GRANGER. That is right. We will operate on a sustained-yield basis, so from now on until eternity we will have the forest in productive condition.

Mr. POAGE. Whatever came from the negotiations with the representatives of the Indians? They were willing, as I recall, to accept one-tenth of the proceeds for the complete extinguishment of their claims. Did we ever have any report on that?

Mr. BRANNAN. Mr. Poage, you will have a report on it this morning from Mr. White of the Interior Department. But, to anticipate, it is my understanding that the Indians and their representative, Mr. Curry, have declined to consider that as a basis of settlement.

Mr. POAGE. Under those circumstances, why not treat this thing like we would handle our private business? If we had an opportunity to present to somebody an alternative in a case of this kind, in terms of take it or leave it, that is exactly what we would do. It seems to me the Congress has a perfect opportunity to say, "We think it is a fair proposition. Your lawyers told us it is fair. We think we are dealing liberally with you. If you don't want to take it, why, we will go ahead with this thing and we will give you a day in court," and then write a bill which would be pretty restrictive. I would be perfectly willing to write a much more restrictive bill here if we had given these people a definite offer and they turned it down.

Mr. COOLEY. The last time we discussed the matter my recollection is that the gentleman took the position that the bill should be amended so as to strike out certain language which had reference to future legislation.

Mr. POAGE. Yes.

Mr. COOLEY. How can we pass legislation which will divest title?

Mr. POAGE. We can say, "We are willing to give you 10 percent of this although you are not entitled to it." Haven't you, as a lawyer, ever paid for a quitclaim deed which you considered worthless? We can say, "We will give you 10 percent for a quitclaim deed today. If you don't want to take that 10 percent, then go to court and try your case in the courthouse," and it may take 15 years to try it.

Mr. COOLEY. That is just the point of the advocates of this legislation. They want to avoid litigation.

Mr. BRANNAN. Mr. Cooley, House Joint Resolution 205 may or may not avoid litigation. It just postpones the full investigation and determination of the mechanisms by which the rights of all of the claims can be determined.

Mr. COOLEY. I will go with you on that if you strike out "and by future legislation." Put a period right after "determined" on top of page 3 and you have got what you want. I do not think Congress should put itself in the position where it is going to be determined by future legislation, because future legislation cannot determine property rights.

Mr. GOFF. Mr. Cooley, if I may interrupt, you will find on page 3 of the Senate bill that they have done that. I think that would take care of our situation and avoid any further argument on that score.

The CHAIRMAN. Let us not go into that until we get into executive session.

Mr. COOLEY. If I recall, Mr. Chairman, that is about the only controversy in the bill.

Mr. POAGE. It seems to me it was understood we might work out a compromise on this. If we can settle cheaply enough, I think a poor settlement is better than a lawsuit on both sides.

The CHAIRMAN. Let us wait until we get Mr. White before us and we will have him go into the details.

Mr. BRANNAN. Mr. Chairman, I can conclude in a very few minutes. I might say, if it would be of any assistance, as far as the language which Mr. Cooley suggested being stricken, we have no objection to that.

Mr. COOLEY. I think if you do that it might eliminate the only objection to the bill. I only want to do what is sought to be done by the bill. It seems to me that language ought to go out.

Mr. BRANNAN. I would not, Mr. Chairman, undertake to describe the position that the Indians took before the committee, but if I understand it correctly, it is that they are insisting upon having vested in them title to substantial portions of the land as described by the Ickes report and so-called Haas-Goldschmidt report. Therefore I would like to bring to the committee's attention and to offer for introduction into the record two letters from the two companies which have indicated their willingness to bid on the establishment of a pulp enterprise in this area as and when the title matters can be settled. The first one is from the Puget Sound Pulp & Timber Co. of Bellingham, Wash., and the second one is from the D. & F. Co., both being addressed to Mr. Watts, Chief Forester, Department of Agriculture.

Then I have a group of telegrams that I would like to present for your consideration from various chambers of commerce throughout Alaska, endorsing House Joint Resolution 205. There are four of them. They are addressed in each case to Mr. B. Frank Heintzleman, who is the resident representative of the Forest Service in Alaska and who is now down here.

The CHAIRMAN. The understanding is they are all in favor of House Joint Resolution 205; is that correct?

Mr. BRANNAN. That is correct.

The CHAIRMAN. At this particular point of putting the telegrams in, the Chair has some telegrams—I think probably some of them are from the same chambers of commerce, although some seem to be from others—which I think it would be appropriate to put in the record. They are all favorable to this legislation.

The Chair will submit for the record at this point a wire from the Ketchikan Chamber of Commerce;

A letter from the Ketchikan Pulp Committee, of Ketchikan, Alaska;

A letter from Adjutant Arthur V. Simonsen, of Ketchikan Post, No. 3, of the American Legion, Ketchikan, Alaska;

A resolution by the Juneau Chamber of Commerce, Juneau, Alaska;

A letter from the president of the Petersburg Chamber of Commerce, Petersburg, Alaska.

A letter from the secretary of the Matanuska Valley Chamber of Commerce, Palmer, Alaska;

A letter from the Secretary of the Wrangell Chamber of Commerce, Wrangell, Alaska;

A telegram from the president of the Alaska Native Brotherhood, Camp 14, embracing the Ketchikan area.

Without objection, those letters and telegrams will be inserted in the record at this point.

(The letters and telegrams referred to are as follows:)

WRANGELL, ALASKA, *June 30.*

FRANK HEINTZLEMAN,

United States Forest Service, Washington, D. C.:

This records our full support House Joint Resolution 205 without amendment.

WRANGELL CHAMBER OF COMMERCE,
W. R. ESTAUGH.

SKAGWAY, ALASKA, *June 27, 1947.*

MR. FRANK HEINTZLEMAN,

United States Forest Service, Juneau, Alaska:

The Skagway Chamber of Commerce wishes to go on record of supporting the adoption without amendment House Joint Resolution 205 and earnestly solicit your support in this matter.

SKAGWAY CHAMBER OF COMMERCE.

SITKA, ALASKA, *June 27, 1947.*

FRANK HEINTZLEMAN,

Regional Forester, Territory of Alaska.

United States Forest Department, Washington, D. C.:

This organization strongly urges speedy adoption House Joint Resolution No. 205 without amendment. Urgent outside capital be introduced Alaska but cannot materialize until aboriginal rights settled or this memorial adopted as fairest way to allow expansion pending final settlement all claims.

FRANK RICHARDS,
Secretary, Sitka Businessmen's Association, Inc.

JUNE 27, 1947.

MR. FRANK HEINTZLEMAN,

Regional Forester, United States Forest Service, Washington, D. C.:

Ketchikan Chamber of Commerce endorses House Joint Resolution 205 as proposed without amendment. To amend this resolution allowing the courts to adjudicate the Indian claims will cause nothing but delay that would be disastrous to the development of the pulp industry in southeastern Alaska. We appreciate your untiring efforts toward bringing this new industry into the Territory and you may be certain that you have our unqualified support. While we feel that there are no aboriginal rights, if there are, the resolution amply provides for care same. You are authorized to use this wire in any manner you see fit.

KETCHIKAN CHAMBER OF COMMERCE,
W. K. BOARDMAN, *Secretary.*

KETCHIKAN, ALASKA, *July 6, 1947.*

Hon. CLIFFORD R. HOPE,

Chairman, Agriculture Committee,

House of Representatives:

The Ketchikan Chamber of Commerce by unanimous approval is unalterably repeat unalterably opposed to giving Alaska Indian groups a 10-percent royalty on the natural resources in Alaska, including giving any such royalty on the timber resources of the Territory.

KETCHIKAN CHAMBER OF COMMERCE,
W. K. BOARDMAN, *Secretary.*

KETCHIKAN PULP COMMITTEE,
Ketchikan, Alaska, May 26, 1947.

CHAIRMAN, AGRICULTURAL COMMITTEE,
House of Representatives, Washington 25, D. C.

DEAR SIR: I am in receipt of a copy of House Joint Resolution 205. I want to congratulate you and all those instrumental in introducing this bill and sincerely hope your efforts to facilitate its passage will prove fruitful.

I speak on behalf of our entire committee and I assure you on behalf of all businessmen in this district and from all information for all future-minded businessmen in southeast Alaska when I say we would be deeply grateful to see this resolution become legislation.

There is no single problem which at present is so detrimental to expansion of business and population of the Territory of Alaska today than that presented by the threat of the present status of the aboriginal rights question.

I could expound indefinitely on this subject but it would all resolve into the fact that we of this district and of Alaska are vitally interested in seeing this bill passed and I trust your committee will do their utmost in putting it through the House.

Sincerely,

J. RAY ROADY, *Chairman.*

P. S.—The decision at present of one large pulp and paper mill in starting construction in our locality hinges greatly on the settlement of this very question.

THE AMERICAN LEGION,
DEPARTMENT OF ALASKA,
Ketchikan, Alaska, June 17, 1947.

Representative CLIFFORD R. HOPE,
Chairman Agricultural Committee, House of Representatives,
Washington 25, D. C.

DEAR SIR: At a regular meeting on June 16 the Ketchikan Post No. 3 of the American Legion unanimously endorsed House Joint Resolution 205 and urge its passage.

We feel that it will, if passed, open Alaska to industries hitherto unable to begin operations with the uncertainty of the aboriginal rights question hanging over their heads. The direct benefits from this resolution may be unmeasurable.

Sincerely,

ARTHUR V. SIMONSEN, *Adjutant.*

RESOLUTION OF JUNEAU CHAMBER OF COMMERCE

Whereas there was introduced in the House of Representatives at Washington on May 21, 1947, House Joint Resolution No. 205, the purpose of which is to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest, and

Whereas, by the provisions of this resolution all possessory rights of all native tribes, native villages, native individuals or other persons which have not been confirmed by patent or court decision or included within any reservation are subrogated to the right of the Secretary of Agriculture to make contracts for the sale of national-forest timber and to the right of the Secretary of the Interior to sell such lands where they are vacant and unappropriated and within the exterior boundaries of the Tongass National Forest, Alaska, impounding all receipts therefrom in a special account in the Treasury to be held until the rights to the land and timber are finally determined by or under future legislation; and

Whereas the Tongass National Forest contains large areas of timber suitable for the making of pulp and paper and it has become apparent that the time has now arrived when, because of the great world-wide shortage of paper and the high cost thereof, its manufacture in the Territory of Alaska can probably be successfully and profitably developed and that now the most serious obstacle to the establishment of a paper-making industry in Alaska is the claim put forward and maintained by the Interior Department that there exist certain rights and claims of Indian tribes which are known as ancestral rights, to occupy and use practically all of the Tongass National Forest lands which are of any value, not-

withstanding the fact that the United States Circuit Court of Appeals in the case of *Miller, et al, v. the United States*, decided on February 11, 1947, held that all "original Indian title" was abolished and extinguished by the treaty with Russia of June 20, 1867; and

Whereas it is quite impossible to obtain the large amounts of capital necessary to establish even one paper-making plant in the Tongass National Forest with one department of the Government refusing to recognize a decision of the Federal court which would seem to be the law of the land; and keeping alive as a constant threat to prospective users of land and timber within the Territory these asserted Indian tribal claims; and

Whereas the establishment of this industry in Alaska is of paramount importance to the Territory and to the United States and the passage of House Joint Resolution No. 205 has for its purpose the removal of this threat so far as the paper-making industry and the lumbering industry are concerned: Now, therefore, be it

Resolved, That the Juneau Chamber of Commerce endorse House Joint Resolution No. 205 and urge its immediate passage by the Congress of the United States; be it further

Resolved, That copies of this resolution be sent to the Honorable Clifford R. Hope, chairman of the Committee on Agriculture of the House; Hon. Hugh Butler, chairman of the Committee on Public Lands of the United States Senate; the Secretaries of Agriculture and of the Interior, Delegate E. L. Bartlett, and to Mr. B. F. Heintzleman, United States Forest Service, Washington, D. C.

Passed and approved by the Juneau Chamber of Commerce this 12th day of June 1947.

J. I. MACKINNON,
President.
W. ROBERT WEBB,
Secretary.

PETERSBURG CHAMBER OF COMMERCE,
Petersburg, Alaska, June 24, 1947.

HON. CLIFFORD R. HOPE,
Chairman, House Committee on Agriculture,
Washington, D. C.

DEAR MR. HOPE: Mr. George Sundborg, general manager of our Alaska Development Board has sent us your House Joint Resolution 205, in the House of Representatives, dated May 21, 1947, regarding the sales of timber in Alaska within the Tongass National Forest.

I took this matter up in detail with our chamber of commerce today; and am happy to advise you that they endorsed it heartily. Alaska badly needs that pulp industry. We have the necessary timber and water power for it; and we sincerely hope that satisfactory arrangements can be made between all parties so that there will be no interruption in the proposed program.

Very best of wishes,

E. N. OHMER, *President.*

MATANUSKA VALLEY CHAMBER OF COMMERCE,
Palmer, Alaska, June 24, 1947.

The Honorable CLIFFORD R. HOPE,
Chairman, House Committee on Agriculture,
Washington 25, D. C.

DEAR SIR: The Matanuska Valley Chamber of Commerce wishes to express its endorsement of House Joint Resolution 205, which authorizes the Secretary of Agriculture to sell timber within the Tongass National Forest.

We feel this bill, if passed, will do much to help the development of Alaska.

Very truly yours,

ZOLA M. FINEMAN, *Secretary.*

WRANGELL CHAMBER OF COMMERCE,
Wrangell, Alaska, June 26, 1947.

The Honorable CLIFFORD R. HOPE,
Chairman, House Committee on Agriculture,
Washington 25, D. C.

DEAR MR. HOPE: This letter is to record with your committee our approval of your House Joint Resolution 205 without amendment.

We sincerely wish for your success in having this measure put through. The pulp-and-paper industry must have assurance of this nature before investment of capital is made.

Yours very truly,

H. L. EASTAUGH, *Secretary.*

KETCHIKAN, ALASKA, July 3, 1947.

To: Hon. J. A. Krug, Secretary of the Interior.

From: Herbert J. Burton, president, Alaska Native Brotherhood, Camp 14.

I am president of Alaska Native Brotherhood, Camp 14, embracing Ketchikan area and comprised of approximately 1,000 Indians, 500 of which are adults. In council meeting today we adopted following resolution:

"Whereas fishing is dying out increasingly each year because of fish traps and whereas pulp mills have indicated a desire to establish immediately in this area, and whereas their establishment will greatly benefit our economy and increase employment on a year-round basis: Now, therefore, be it

"Resolved, That Camp 14 of the Alaska Native Brotherhood informs the appropriate committees in Congress, including the Secretary of Interior, that it favors legislation now permitting the sale of timber by the Forest Service."

KETCHIKAN, ALASKA, July 4, 1947.

Hon. CLIFFORD HOPE,
Congressman From Kansas, Washington, D. C.:

Following wire sent to Delegate Bartlett: "I am definitely opposed to aboriginal rights even to 10 percent of timber cut in perpetuity. If this goes through I will benefit through construction and so would everyone else in our generation but it would be a sell-out of our children and grandchildren who, in a great many cases, were born in Alaska but are not Indians. The idea is immoral and I do not propose to have my children paying 10 percent or any percentage because I weakly submitted to a raw deal that puts them in servitude to anyone, Indians or otherwise. I expect and know you will oppose this kind of legislation. Better let us suffer, painful though it may be, than sell our descendants' natural heritage. All fair-minded Indians agree with me. This wire is not confidential." The courts have held there are no aboriginal rights; everyone, Indians included, will benefit by development of pulp and paper and it will be a lifesaver for Alaska. Hawaiians asked for no aboriginal rights; the idea is unknown where territory was acquired by peaceful means. Revive House Joint Memorial 205 which amply protects everyone.

NORMAN WALKER,
Territorial Senator.

KETCHIKAN, ALASKA, July 5, 1947.

Hon. CLIFFORD HOPE,
Congressman From Kansas, Washington, D. C.:

Reliably reported here that James Curry, attorney for Indians, was forced to resign from Department of the Interior for subversive activities. Investigate through Committee on Un-Americanism. Nothing would suit Russia better than to hold up development of Alaska, closest North American neighbor. This information may make it possible to revive House Joint Resolution 205. Mail me all information by air or if important enough wire.

NORMAN R. WALKER,
Territorial Senator.

KETCHIKAN, ALASKA, July 8, 1947.

Hon. CLIFFORD HOPE,

Congressman From Kansas, Washington, D. C.:

Lemke bill to settle Alaska with service men and women largely nullified by holding up House Joint Resolution 205. Passing of this resolution will benefit thousands of Indians along with whites. For references to me, Bill Strand, Chicago Tribune, will see you.

NORMAN R. WALKER.

Mr. COOLEY. Mr. Chairman.

The CHAIRMAN. Mr. Cooley.

Mr. COOLEY. I would just like to ask the witness if he does not think the Senate bill, on page 3—which partly corrects the objection I have to House Joint Resolution 205, as suggested by Mr. Goff a moment ago—isn't far better than that provision in House Joint Resolution 205? Strike out the language that some of us objected to and make provision in there for final determination of claims, confer jurisdiction on the proper courts, and settlement limitation in 5 years. If that is agreeable to the sponsors of this legislation, I have no objection to it. It seems to me that is the proper thing to do.

Mr. BRANNAN. As I previously indicated, Mr. Cooley, we have no objection to the striking of that language, as it is in line 11 on page 3 of the current draft of S. 118.

Mr. FLANNAGAN. Was there any objection to the Senate bill as passed?

Mr. BRANNAN. Yes, Mr. Flannagan; we would like to raise one point. If you will refer to the same page 3, at the end of line 2, we would like to add the words, "for firewood, buildings, and other domestic purposes." You see what has taken place there is to the language which was originally in these resolutions has been added the phrase "or any timber actually possessed and used by the native tribes."

Mr. FLANNAGAN. Is that on page 3?

Mr. BRANNAN. That is on page 3, line 2.

Mr. FLANNAGAN. Add what?

Mr. BRANNAN. Add the words, "for firewood, buildings, and other domestic purposes."

Mr. BARTLETT. Is that the Senate bill?

Mr. BRANNAN. Yes, sir. That is merely a clarification. The use of the words "or any timber actually possessed" was much too broad a term and should be limited to the types of timber and uses which they would make of it domestically, and for fire purposes.

Mr. GOFF. If I may interject a question here, if you leave it "actually possessed" you are up against the same thing again, as to whether the people claim they possess it or not. This amendment limits it to firewood, buildings, and other domestic purposes, which I think is a very good suggestion and does give the Interior Department and Forest Service some definite yardstick on which to base any determination they make.

Mr. BARTLETT. Mr. Chairman, may I ask a question?

The CHAIRMAN. Mr. Bartlett.

Mr. BARTLETT. Referring to the new language inserted by the Senate in section 3, page 3, of the Senate bill, you will have the limitation

providing compensation only to the Indians instead of possibly receiving some land. Do you approve of that language?

Mr. BRANNAN. I am sorry, I did not get that.

Mr. BARTLETT. Section 3 (a), page 3, line 10, of the Senate bill, there is an amendment inserted there which limits the recovery to compensation. Do you approve of that change?

Mr. GOFF. I believe the witness has already stated earlier, if I may interrupt, that he felt if they gave them land it would make a real problem, as far as the administration of the area is concerned. It seems to me that is taken care of on the next page in the part that has already been called to the attention of the committee by Mr. Andresen, on page 4, where it provides for pay for any additional rights.

Mr. BARTLETT. It would be strictly a money grant; there would be no land included. You testified on that subject before?

Mr. BRANNAN. Yes, we did, Mr. Bartlett.

The CHAIRMAN. Mr. Brannan, as you understand it, with the addition of the language suggested at the end of section 2 (c), you are in accord with the amendments which were made by the Senate committee?

Mr. BRANNAN. Yes, Mr. Chairman. There are some ambiguities with respect to the administration of the fund created by the bill as amended by the Senate which I think Mr. White is going to discuss with the committee in greater length. We are aware, as we read the bill, that it does create some administrative ambiguity, as far as the Department of the Interior, or the Secretary of the Interior is concerned, and we would not want to be in the position of saying that we would object to any language which would clarify that situation.

The CHAIRMAN. As far as the intended purpose of the Senate amendments are concerned, you understand the Department is in accord with them?

Mr. BRANNAN. Yes, sir. May I make one other statement. I read to the committee the suggested revision or addition to line 2 on page 3 and used after the word "buildings" the word "and." Our attorneys advise me that that word should have been "or."

The CHAIRMAN. That is all right. We thank you very much, Mr. Brannan.

We will be glad to hear from you now, Mr. White.

STATEMENT OF MASTIN G. WHITE, SOLICITOR, DEPARTMENT OF THE INTERIOR

Mr. WHITE. Mr. Chairman and members of the committee, my name is Mastin G. White. I am Solicitor of the Department of the Interior.

I should like at the outset to offer for inclusion in the record of the hearing a copy of a radiogram dated July 1, 1947, from Governor Gruening of Alaska to the four native representatives who appeared before this committee on July 3 with respect to House Joint Resolution 205. Governor Gruening, in his radiogram, urged the native representatives to withdraw their objections to the passage of the proposed resolution.

I should also like to offer for inclusion in the record a copy of a telegram dated July 3 from Mr. Herbert J. Burton, president of the

Alaska Native Brotherhood Camp No. 14 at Ketchikan, Alaska. In his telegram Mr. Burton expressed approval, on behalf of his organization, of the legislation which would authorize the sale of timber within the Tongass National Forest by the Secretary of Agriculture.

The CHAIRMAN. Let me ask you right there, this is one particular camp of the Alaska Native Brotherhood. To what extent does the membership of this camp, as you understand, include the group which constitutes the claimants in this particular land? In other words, what I want to get at, is Mr. Burton speaking for most of the claimants, or are there other camps in the Alaska Native Brotherhood which are taking a different position?

Mr. WHITE. I would judge, Mr. Chairman, that the members of this camp constitute only a small percentage of all the native groups in Alaska who are asserting claims to possessory rights over lands within the Tongass National Forest. There are something like 11 or 12 native communities in southeastern Alaska which have asserted in times past that they are entitled to possessory rights with respect to these lands. The Ketchikan group would constitute only 1 group out of the 11 or 12 which have asserted such rights.

The CHAIRMAN. I wanted to be a little clearer on that. I did not know how large a group Mr. Burton was speaking for.

Mr. ZIMMERMAN. This brotherhood, is that a kind of tribal organization?

Mr. WHITE. It is composed only of Alaskan natives. It is not definitely tied up with specific tribal groups; no, sir. The main tribes in southeastern Alaska are the Haidas and the Tlingits.

Mr. ZIMMERMAN. Is this an organization set-up of the natives?

Mr. WHITE. That is correct, sir.

Mr. ZIMMERMAN. It has nothing to do with tribal government?

Mr. WHITE. That is true, sir.

Mr. Chairman, I have offered this radiogram and this telegram.

The CHAIRMAN. Without objection, they may be received and inserted in the record.

(The radiogram and telegram are as follows:)

[Radiogram]

JUNEAU, ALASKA, *July 1, 1947.*

From: Hon. Ernest Gruening, Governor of Alaska.

For: Frank Peratrovich, Andrew Hope, Frank Johnson, and Fred Grant.

I earnestly hope that you will be able to satisfy yourselves that the timber legislation proposed by House Joint Resolution 205 will greatly benefit all Alaska, particularly southeastern Alaska, and more than any other group in my judgment the native people in southeastern Alaska and that it will also help satisfy an urgent national need.

As you have doubtless learned by this time, the present legislation represents a long and arduous effort to draft a bill which would satisfy the various conflicting interests, protect any possible rights or claims which the native people may have, and likewise make it possible for the pulp and paper industry to get started with the great resulting benefits and year-round employment which its establishment in Alaska will bring.

I hope that you will agree that in my seven and a half years of service as Governor of Alaska I have shown my concern for and interest in the welfare of the native people of Alaska; that I have ever striven for their economic, social, and political advancement, an attitude which I think may be said to have been new and unprecedented, and which reversed preceding practice; and that I

would never knowingly recommend a step or a measure that in my judgment would be injurious or unfair to them.

It is with this in mind that I urge you to support the pending legislation with only such modifications as are clearly acceptable to those who have it in their power to pass the bill, and that you will trust not only in my good faith but in that of Secretary Krug and our Delegate, Bob Bartlett, for whose sympathetic and understanding attitude toward the natives of Alaska I can vouch for no less than I can for my own.

I would consider it a major tragedy if the opposition of your group or of any of them resulted in the nonpassage of House Joint Resolution 205.

The native people would under those circumstances be the chief losers and the effects of the failure to secure the pulp and paper industry for Alaska which I am confident would be the case if the bill fails of passage at this session will be disastrous. It will shut off perhaps for all time, or at least for many years to come, the first important year-round industry that has ever been available to Alaska and which is ready to begin immediately. It will deprive the natives of any possible revenue from the sale of timber should they be entitled to it. It will deprive the natives of one of the great lacks in their economy, namely, the opportunity for year-round employment. It will create misunderstanding and hard feelings and deepen the cleavage among our Alaskan people and racial groups which I among others and yourselves have been earnestly striving to diminish and if possible to eliminate completely. I therefore conclude with an urgent plea that you support this measure with only such changes as are clearly acceptable to all concerned.

KETCHIKAN, ALASKA, July 3, 1947.

CLIFFORD R. HOPE,

Chairman, Agriculture Committee,

House of Representatives, Washington, D. C.:

I am president of Alaska Native Brotherhood Camp 14 embracing Ketchikan area and comprised of approximately 1,000 Indians, 500 of which are adults. In council meeting today we adopted following resolution: "Whereas fishing is dying out increasingly each year because of fish traps and whereas pulp mills have indicated a desire to establish immediately in this area, and whereas their establishment will greatly benefit our economy and increase employment on a year-round basis, now, therefore be it: *Resolved*, That Camp 14 of the Alaska Native Brotherhood inform the appropriate committees in Congress including the Secretary of Interior that it favors legislation now permitting the sale of timber by the Forestry Service."

HERBERT J. BURTON, *President.*

Mr. WHITE. The Secretary of the Interior sincerely regrets that the four native representatives who appeared before the committee on July 3 feel that House Joint Resolution 205 in its present form would prejudice their interests and that accordingly they are unable to support the proposed resolution. Notwithstanding the native objections, the Secretary of the Interior still adheres to the original position taken by the Department with respect to this measure, which was that the enactment of House Joint Resolution 205 in its original form actually would not prejudice the native interests to a substantial degree. The secretary's feeling in the matter is based on the fact that a large-scale development of the timber resources within the Tongass National Forest is of vital importance to all the people of Alaska, including the native groups, and also is of vital importance to the general welfare of the whole United States.

The secretary is sincerely convinced that the prompt beginning of such a large-scale program is impossible unless the management of the timber within the forest, including that which stands on any lands over which the native communities in Alaska have possessory rights, is vested in the Secretary of Agriculture.

The pending measure would vest in the Secretary of Agriculture complete legal authority to manage the timber and to sell it for the benefit of whoever the owner or owners might be, whether the ownership is ultimately determined to be in the United States with respect to the whole of the forest or whether it is ultimately determined to be in native tribes or groups with respect to a substantial part of the forest.

It is felt that Congress has complete authority with respect to the management not only of the Government's interest here but also the interests of the native groups, and that this measure would constitute a fair and reasonable exercise by Congress of its over-all authority, because it would impound all the receipts from the sale of the timber through the managerial efforts of the Secretary of Agriculture in a special account in the Treasury until such time as a final determination might be made as between the respective interests of the Government, on the one hand, and of the native groups and tribes, on the other hand, with respect to the funds in the special account.

Mr. GOFF. May I interject one question to clear this up? In other words, the view is that irrespective of the fact that they may own specific land, that, after all, they are wards of the Government and as wards the Government has a right to manage their property for them?

Mr. WHITE. That is correct, Colonel Goff. I don't think there is any question regarding the constitutional authority of Congress to provide for the management of Indian property. That is all that House Joint Resolution 205 purports to do, as I understand it. It is to vest the managerial function with respect to the timber in the Secretary of Agriculture, who is the Government official best qualified to exercise that managerial function, and the benefits from his efforts would go to whoever the owner or owners of the land and timber might be subsequently determined to be.

Mr. ZIMMERMAN. You speak of wards of the Government. That question hasn't been brought up in the discussion up to this time, as I recall.

Mr. COOLEY. If they are wards of the Government do you take the position that they have no right to the ownership of property?

Mr. WHITE. Not at all, Mr. Cooley.

Mr. COOLEY. If they have the right of ownership even though they are wards of the Government they are still entitled to the protection of the laws, just as any other person would be.

Mr. WHITE. Absolutely, yes, except that the Congress, because of the peculiar relationship of Indian wards to the United States, does have plenary authority with respect to the management of their property.

Mr. COOLEY. That is with respect to the management.

Mr. WHITE. That is right, sir.

Mr. COOLEY. Do you think the House bill should be amended so as to take in the provisions of the Senate bill with reference to the determination of the rights?

Mr. WHITE. No, sir, we would much prefer that the resolution in its present language be enacted by the Congress, for this reason:

The purpose and effect of the Senate amendments are uncertain, in my judgment. Apparently, though, the amendments constitute an effort upon the part of the Senate committee, or rather a recommendation upon the part of the Senate committee, which would contemplate the extinguishment of the possessory rights of the native groups with respect to lands within the boundaries of the Tongass National Forest. It is the position of the Interior Department, and it has traditionally been the position of the whole Government, that native rights should not be extinguished without their consent.

Mr. COOLEY. What part of the Senate bill does that?

Mr. WHITE. I am just saying that the purpose and effect are really uncertain. I judge from the fact that the Senate amendment speaks only of establishing rights to compensation here and has stricken the reference to the rights in the land and the timber, that probably the purpose was to extinguish the rights of the natives with respect to the timber and land and leave them only with recourse to some official or agency with respect to the value.

Mr. COOLEY. We have no right to extinguish their rights.

Mr. WHITE. Congress has the legal authority, yes, sir, to extinguish the possessory rights of the natives, but it is felt by the Interior Department that Congress should not exercise that right without the consent of the natives.

Mr. COOLEY. Why do you say Congress has the legal right to extinguish the possessory rights of the natives in real property as differentiated from citizens who are not wards of the Government?

Mr. WHITE. I am speaking only of so-called Indian title, which is the right of occupancy of Indian groups growing out of their aboriginal possession of particular areas of land. Insofar as unrestricted patents or deeds may have been issued to specific individual Indians with regard to particular areas of land, of course they have the same immunity, let us say, from congressional management as any other person would have with respect to that particular land. But so-called Indian title—that is, the right of occupancy growing out of aboriginal possession—is a peculiar legal concept, and it has been clearly established by decisions of the Supreme Court that such title can be extinguished by Congress at will, the Congress alone having the prerogative of determining the manner, the method and the time of such extinguishment.

Mr. COOLEY. Well, this bill deals with those that have deeds, doesn't it?

Mr. WHITE. No, sir; it relates only to possessory rights. Those rights are defined in the first section of the bill as being rights either growing out of aboriginal title or out of specific acts of Congress, which has during the past 50 or more years specifically recognized rights of occupancy upon the part of the Indians of Alaska.

Mr. COOLEY. What is your main objection to the Senate provisions?

Mr. WHITE. The first objection is the basic objection, that it apparently, although not clearly, is an effort to extinguish native title without native consent, as distinguished from the purpose of House Joint Resolution 205 in its present language, which is merely one of vesting in a Federal official the authority to manage the property for

the United States to the extent that it is Federal property, and for the Indian groups to the extent that they have possessory rights with respect to the property. Now, that is the basic objection to the Senate amendments.

The second is this: That the bill as voted out by the Senate committee apparently contemplates that somebody will make a determination as to the validity of the claims made by the Indians to the funds within this special account growing out of the disposition of timber by the Secretary of Agriculture, but the amendments themselves do not specify or make plain who or what agency is to make that determination. Now, they later provide in proposed subsection (c) of section 3 that the Court of Claims or the United States district court having jurisdiction over a particular area shall pass on claims for additional compensation which may be made by Indians after they have once established the validity of their claims to money within the special account. It will be noted that the jurisdiction which the Senate committee has proposed to confer on the Court of Claims and on the United States district court would not arise until after the parties had first established that they had a valid claim to a part of the money in the special account and then wished to assert a claim for additional compensation, and it doesn't appear here who is authorized to make the initial determination as to the validity of their basic claim.

Mr. COOLEY. Suppose we make those corrections, then what is your objection? I see your point. Suppose after line 10 page 3 it says "until the rights to compensation for the land and timber have been finally determined"? Why could not you say "until the rights to the property or compensation derived from the sale thereof are finally determined"? That would fix your objection, wouldn't it? The committee would indicate we were leaving the determination as to property rights to some future decision.

Mr. WHITE. Yes, sir.

Mr. COOLEY. And your other objection is on page 4 line 4 where it reads: "in addition to the amount paid under subsection (a)." Why not just strike out the word subsection (a)"?

Mr. WHITE. Of course, we have no objection to any clarifying language which the committee may deem advisable.

Mr. COOLEY. You have given a lot of thought to it I am sure, but why could not we correct it in those two respects? By doing that you would have procedure established in the Senate bill with the statute of limitations fixed to 5 years within which time the rights must be determined. We have a note of finality in the Senate resolution that is not in the House bill, and you also do away with the objection which I have, and others, leaving it to future determination by legislation. I think the Indians could well subject us to criticism for dealing with them in a manner different from what we would deal with ordinary citizens.

Mr. WHITE. The whole purpose, I think, of attempting merely to cover the managerial question in this legislation, on the part of the Government agencies which recommended it in the first place, was to avoid an effort to settle, in the closing days of this session, the highly controversial question regarding the nature and extent of the Indian possessory rights and the problem of providing adequate machinery

for the settlement of those rights. It was felt that if those questions were handled at this late stage of the session, probably the legislation would not be enacted.

Mr. COOLEY. You referred to the management of the property. This bill goes further than that. It doesn't pertain only to management; it deals with vested property rights, probably some rights which are vested by deed or otherwise. My own objection to it is more or less technical. I want to do exactly what Governor Gruening has recommended, but it seems to me we should clarify the whole situation so every claimant would know exactly what his rights were.

Mr. POAGE. Did not the supreme court in California last week wipe out individual rights, and did not they hold in effect if the Government needs property, that it is the property of the Government regardless of any possessory rights on the part of anybody? As I understand it, they held that in the California oil land case and their only ground was that the Government needed the property, therefore it is Government property. We are deciding that the Government needs this property to cut timber on, therefore under this decision what is the use of discussing possessory rights? It is the Government's property under this decision, so why should we go further?

Mr. ANDRESEN. Do you know of any instance where these Indians who claim possessory rights have transferred their possessory rights to another party?

Mr. WHITE. Not by deed, or anything of that sort, Mr. Andresen. But the Circuit Court of Appeals for the Ninth Circuit has held that those rights are transmissible to descendants, and that the present-day descendants of the persons for whom Congress guaranteed possessory rights in the first statute for the government of Alaska in 1884 have a compensable interest for which the Government must pay if it takes the land for a public use.

Mr. ANDRESEN. There has been no actual attempt to transfer the alleged rights to a third party by a conveyance like a deed or instrument of that kind?

Mr. WHITE. I know of no effort along that line which has been considered by the courts.

The CHAIRMAN. Do you have anything further, Mr. White?

Mr. WHITE. No, sir. I would be glad to respond to any further questions. I recall that somebody asked about the negotiations on a 10-percent bill which would give to the natives outright, in perpetuity, 10 percent of the proceeds from the national forest. The counsel, Mr. Curry, and the four representatives of the natives who were here were approached on the question as to whether they would consent to a measure which would extinguish outright their possessory rights in all the vacant lands within the national forest and, in exchange for such extinguishment, would provide for the payment annually to the people claiming possessory rights, as their interests might appear, 10 percent of the receipts from the Tongass National Forest. Their response to the proposal was incorporated in a letter dated July 7 which they addressed to the Secretary of the Interior, and it was negative in form. Unfortunately, I do not have with me at this time a copy of the letter,

but I shall be glad to supply one for the record, if you would like to have it.

The CHAIRMAN. Yes.

(The letter referred to is as follows:)

WASHINGTON, D. C., July 7, 1947.

The Honorable J. A. KRUG,
Secretary of the Interior,
New Interior Building, Washington 25, D. C.

DEAR MR. SECRETARY: We have studied the draft of bill which you submitted to us through Solicitor Mastin White as a substitute for H. J. Res. 205 and S. J. Res. 118, previously recommended by you to both Houses of Congress. We are surprised to receive this sort of bill from you; it is a title-extinguishment bill such as your Department has always opposed. We would like to know why you don't comply with your promise to seek agreement from the various departments on the original "10-percent" bill which your Department submitted to the Indians of Alaska. It was our understanding at our conference of last Tuesday that you would use your influence in behalf of this type of measure and could give us simultaneous assurances that the passage of such a bill would be followed by a final determination of our property rights under the rules and regulations that you have prescribed, rather than by the extinguishment of such rights. We complied with your request that we testify favorably to such a bill. We think you should comply with your promise to support it.

The bill handed to our attorney by Solicitor White is subject to the same criticism that you stated in your letter of March 29, 1947, to Mr. Charles Carter, president of the Juneau Chamber of Commerce, concerning a draft of bill submitted by Mr. Carter. You said:

"The solution which your draft of bill proposes is in some respects a tempting one, in that it would forthwith eliminate all native claims to the public domain in Alaska, without the necessity of a tedious inquiry into what may in fact be their land rights. I do not, however, consider that such an approach is consistent with our national traditions. Our Government has always respected property rights of persons of all races, and should not in my judgment pass a bill which amounts to a general condemnation of all real property belonging to particular races in order simply to achieve certainty of land title."

The substitute draft would also have a very deleterious effect upon the economy of the native towns. The resolution would deprive the Indians of land which is sorely needed by them in order to make a decent living. It provides exceptions only for "town sites, villages, smokehouses, gardens, hunting or fishing camps or cabins, burial grounds, or missionary stations." The effect would be to bottle us up on little tracts of land hardly large enough to live on and certainly not large enough to provide our families with a subsistence. The resolution would deprive us of all means of livelihood, except fishing, and a vague possibility of working for wages. Fishing provides employment for only a few months of a year.

We refer you again to the substitute draft of bill prepared by Solicitor White, and accepted by the Assistant Solicitor of Agriculture as legally adequate to protect the investment of the pulp interests. This measure would have saved this necessary land to the Indians and at the same time encouraged the establishment of a pulp and paper industry in Alaska.

When we talked with you on Tuesday of last week, we came away with the feeling that you understood our problem and would attempt to bring about an agreement which would safeguard our rights. Instead, you have submitted to us this title-extinguishment bill, which is not in conformity with the understandings at which we arrived in our meeting with you. In fact it is directly contrary to the wish of our people that they be allowed to keep at least some of the land of their forefathers which is so necessary to their economic welfare.

Very truly yours,

ANDREW HOPE.
FRED GRANT.
FRANK PERATROVICH.
FRANK JOHNSON.

Mr. COOLEY. Suppose, Mr. White, the committee decides to accept what I suggested a moment ago, would the Interior Department have any objection to that?

Mr. WHITE. As I understood your proposal, the Interior Department would not object.

Mr. COOLEY. That is to clear up the ambiguity you referred to with reference to the compensation proposition.

Mr. WHITE. That is right. Vesting in somebody the specific authority to make the determination as to the rights of the Indians to the property or to the proceeds.

Mr. COOLEY. That is right.

Mr. BARTLETT. The Interior Department does object to the language in the Senate bill as amended on the right to compensation?

Mr. WHITE. Yes, sir; I think everybody understands that point.

Mr. ANDRESEN. Just one more point. It was stated earlier in the hearing that a certain portion of the land had been set aside as a reservation for the Indians, comprising quite a substantial area, in fact it occurs to me it was around 10 percent of the land, and so far the Indians haven't accepted that proposal. I understand this land to be designated by metes and bounds. What about such a proposal?

Mr. WHITE. Mr. Andresen, the Secretary of the Interior in 1945, after extensive hearings in Alaska conducted by Judge Hanna, formerly of the New Mexico Supreme Court, did make findings with respect to the specific areas in southeastern Alaska over which three Indian communities have possessory rights, in the opinion of the Secretary of the Interior. However, no action was ever taken by the Secretary to give legal effect to his decision by incorporating those specific areas within Indian reservations for the benefit of the three communities. Those events transpired before I became connected with the Interior Department and I am not certain myself as to why action to effectuate the Secretary's findings was not taken. Clearly, the Secretary of the Interior does have authority under the law to establish in Alaska Indian reservations covering those areas with respect to which Congress, in the act of May 17, 1884, and subsequently in the act of June 6, 1900, recognized the existence of possessory rights on the part of the Indian population. It is my general understanding, however, that strong opposition to the establishment of Indian reservations in southeastern Alaska developed on the part of Governor Gruening of Alaska, and other people up there, and in fact that the Indians themselves have never indicated any desire for the establishment of reservations along the lines outlined in the Secretary's decision.

Mr. BARTLETT. Will the gentleman yield in connection with that?

Mr. ANDRESEN. I just want to say this: I assume that that was an attempt to extinguish their possessory right over other land.

Mr. WHITE. Well, the Secretary found that the rights with respect to other areas had been extinguished, or had been abandoned by the natives themselves, and that, out of the original areas over which they had possessory rights either by virtue of aboriginal possession or by virtue of acts of Congress, they retained as of 1945 only comparatively limited areas.

Mr. BARTLETT. One reason that reservations were not established was that the Alaska Native Brotherhood representatives at their annual convention went on record against it.

Mr. GOFF. One question. In other words, the theory of that was that the Secretary of the Interior had no legal authority to fix rights in land as to any specific Indians, but merely that he might establish Indian reservations which would be reserved for Indians. It was not a matter of fixing the title or vesting the title in any specific Indians.

Mr. WHITE. It was not a matter of fixing title, because there is no specific title granted when an Indian reservation is established, but the authority of the Secretary of the Interior in this respect goes to those areas over which the Indians, in accordance with the determinations made by the Secretary, have possessory rights. In other words, if the Secretary of the Interior finds that a particular Indian group in Alaska has possessory rights by virtue of acts of Congress with respect to particular areas, then he is authorized by law to set those areas up as Indian reservations for the benefit of the Indian groups.

Mr. GOFF. In other words, then this so-called determination of the Secretary referred to by Mr. Curry has no legal effect as far as our discussion here is concerned?

Mr. WHITE. It merely represents the views of the Secretary of the Interior regarding the extent of the existing possessory rights of three native communities in Alaska as of 1945.

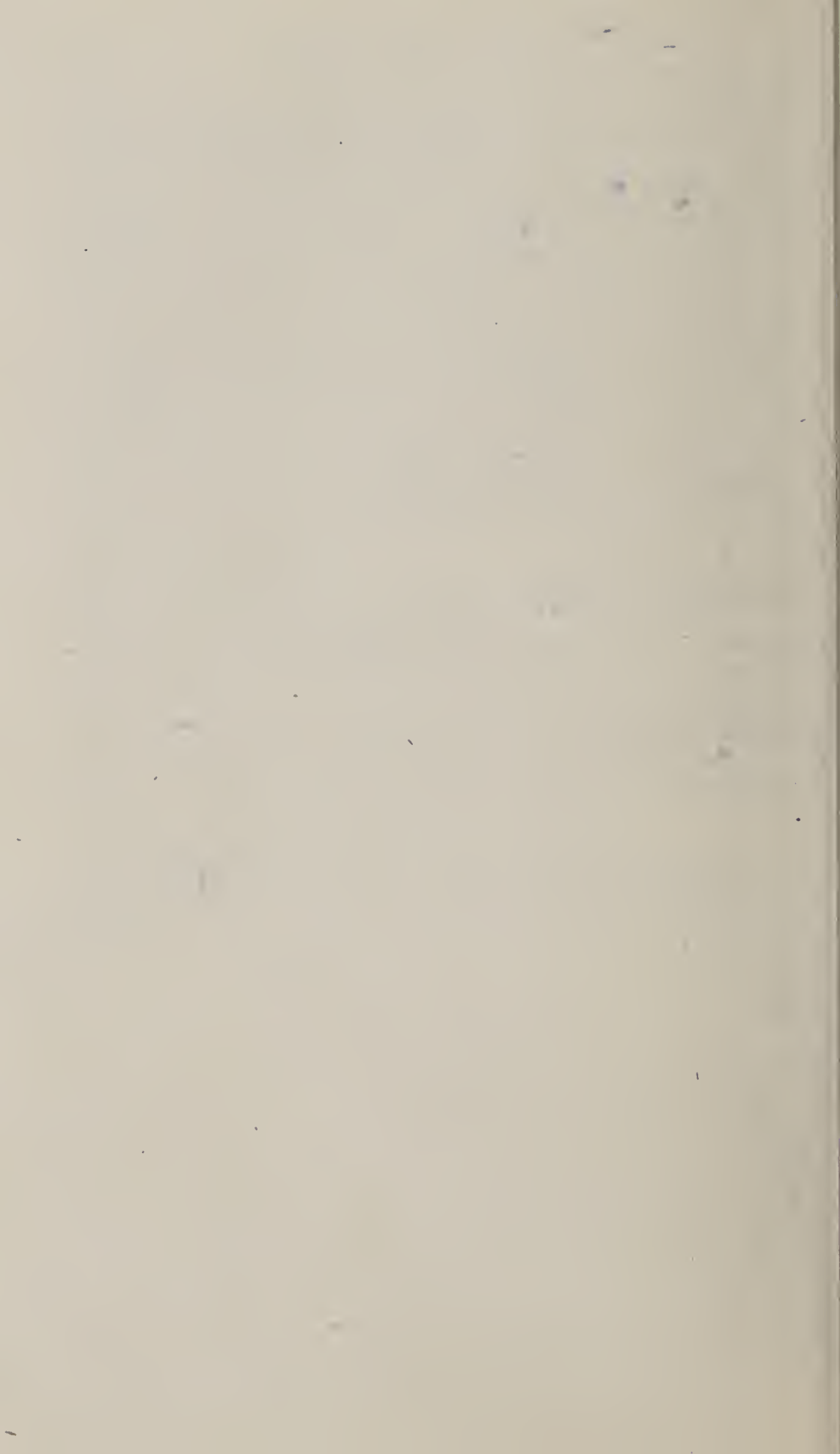
Let me say further with respect to the establishment of reservations—and I should have mentioned this before—under the statute, once the Secretary decides that a reservation should be established, the question must then be submitted to a vote of the Indian group concerned. The voting is by secret ballot, and the proposal for the establishment of the reservation must be approved by a majority of the people who participate in the election, and the total participating must amount to 30 percent of the eligible voters.

The CHAIRMAN. We thank you very much, Mr. White.

Mr. WHITE. Thank you, sir.

The CHAIRMAN. The committee will go into executive session.

(Whereupon, at 11:20 a. m., the committee retired into executive session.)



OFFICE OF THE ATTORNEY GENERAL
Division of Legislative Reports

(For administrative information only)

HARRIS ON H. R. 190 AND H. J. RES. 205, RELATING TO INDIAN CLAIMS IN ALASKA,

The House Public Lands Committee held hearings on H. R. 190, to extinguish Indian claims to land in Alaska, June 13, 1947:

Assistant Interior Secretary Gardner spoke in favor of the bill but said the complexities of the problem might delay handling the job and that, therefore, H. J. Res. 205 (see below) should be passed to permit firm contracts with the pulpwood industry and thus facilitate pulpwood production in Alaska.

Mr. Heintzelman, FS, said proper adjustment of the Indian land problem will require (1) legislative definitions of satisfactory "occupancy and use" to give tracts the status of possessory right lands, (2) a tribunal to determine the lawful possessory owners and whether they have met the legislative requirements for possessory ownership, and (3) an administrative agency to negotiate for the surrender of Indian lands to the U. S. He said negotiations would have to await accomplishment of (1) and (2). He stated that there are now widely varying opinions as to what constitutes satisfactory occupancy and use on possessory lands.

James Curry, attorney of Indian villages in southeast Alaska, urged enactment of this bill. He said Interior has already determined Indian holdings (which Mr. Gardner and others deny) and that negotiations under H. R. 190 could be completed "within a few weeks."

W. C. Arnold, representing the Alaska Salmon Industry, testified against the bill. He said Alaska possessory Indian rights probably don't exist except for small areas "actually occupied and used", and that claims could not be settled under this bill for years. He advocated that possessory claims, except for such small areas, be extinguished by Congress at once with provision for recompensing the Indians for anything taken away from them after their rights had been defined.

The House Agriculture Committee held hearings on H. J. Res. 205 regarding timber sales on Tongass National Forest, June 12, 1947:

Mr. Curry, attorney for some Indian villages, testified on this measure, which would allow timber sales to be made on this Forest, notwithstanding any possessory Indian claims on any land involved, but provide that the Indians be given stumpage receipts collected in any lands which might later be determined to be possessory-right lands. He repeated that Interior has determined the extent of possessory Indian lands but that Forest Service and Justice Department refuse to abide by that determination. His answer was vague as to how FS could refuse to abide if Interior has the determination authority. He said if FS would recognize these determinations the Indians could sell directly to pulp manufacturers from their lands and would relinquish claims to remaining lands.

Carl R. Sapp, RIF

Summary of resume by B. F. Heintzelment, FS, which also discusses possible actions on the bill. Copy of entire statement is in Division of Legislative Reports for landing purposes (separate copy sent to Mr. Brannen's office).

OFFICE OF THE DIVISION OF LEGISLATIVE REPORTS
DIVISION OF LEGISLATIVE REPORTS

REPORT OF THE HOUSE AGRICULTURE COMMITTEE H. J. RES. 205, ON ALASKA TIMBER, 1947
JUNE 9, 1947

Assistant Secretary Brannan said the sole purpose of the bill is to (1) help develop Alaska, (2) promote establishment of the pulp industry there, (3) protect the pulp operators against suits by any claimants of possessory rights on the lands covered by the Forest Service pulptimber contracts.

Much discussion developed among members of the Committee over the desirability of extinguishing immediately all possessory claims by a compromise with the Indians on either of a cession of lands, or a grant to them of 10% of the receipts of the National Forest in perpetuity. Both of these plans have been suggested in recent conferences of the federal agencies and the Indians. Mr. Brannan pointed out that neither of these suggestions had been agreeable to all concerned. The Indians definitely turned down the 10% proposition. He stressed that any plan for final settlement would take more time than remains in the present session of Congress and that interim legislation like H. J. Res. 205 is imperative to get the pulp operations started.

Mr. Brannan offered no objection to striking out the provision in Sec. 3(a) which specifies how the rights to land and timber are to be determined; i.e., to the elimination of the words, "by or under future legislation". He also agreed that the provisions of Sec. 2(c) of S. J. Res. 118 as amended, be incorporated in H. J. Res. 205. This exempts from timber contracts any lands actually used for Indian townsites, gardens, etc. He said one exempted item—timber should be more clearly defined by adding to the end of the last sentence, the words here underscored: "or any timber actually possessed and used by any native tribes, native villages, native individuals, or other persons, for firewood, building or other domestic purposes." Mr. Brannan read into the record letters from the D and F Co. of New York and Puget Sound Pulp and Timber Co., stating that they could operate under H. J. Res. 205 but were adverse to going into Alaska if part of the timber lands under their cutting contracts were to be patented to the Indians.

Master White, Solicitor, Interior Department, filed copies of a wire from Gov. Gruening to the Indian groups urging them to agree to H. J. Res. 205; also copy of a resolution from the Ketchikan unit (1,000 Indians) of the Alaska Native Brotherhood, a S. E. Alaska Indian self-help society, Herbert Burton President, favoring the sale of the timber by the Forest Service. White said Secretary Krug was in favor of the H. J. Res. 205 in its original form and regretted that the four Alaska Indians who testified last week were against it.

B. F. Heintzelman, *
Forest Service

In cooperation with the Division of Legislative Reports

DIGEST OF CONGRESSIONAL PROCEEDINGS OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports
(For Department staff only)

Issued July 7, 1947
For actions of July 3, 1947
80th-1st, No. 127

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HIGHLIGHTS: Senate passed bill to continue certain allocation, priority, and export-control powers. Senate passed bill to authorize REA to refinance certain TVA loans to cities. Senate passed bill to authorize research and eradication of cattle grubs. House committee reported revised sugar bill. House committee reported bill transferring Crab Orchard project to Interior. State, Justice, Commerce, Judiciary appropriation bill ready for President. Senate committee reported bill to permit sale of Tongass Forest timber. Senate committee reported favorably nomination of Wells as Cooperative Bank Commissioner. House committee approved bills to extend SCS, ACP, and FHA to Virgin Islands; amend Plant Quarantine Act; and facilitate use and occupancy of forests. House committee approved measure ending certain war and emergency powers. Rep. Curtis urged continued production of synthetic rubber from farm crops. President approved Emergency Appropriation Act.

SENATE

1. **WAR POWERS.** Passed with amendments H. R. 3647, to continue certain war powers, with the language of S. 1461 as amended (pp. 8374-98). The Senate bill was then indefinitely postponed. Sens. Wiley, Cooper, and McCarran were appointed Senate conferees (p. 8398).

Agreed to the following amendments: By Sen. Ellender, La., to make clear that allocations powers regarding fats-oils and rice are extended only for the purpose of exercising import control (in this connection Sen. Ellender inserted a letter from Under Secretary Dodd) (pp. 8377-8). By Sen. Reed, Kans., to extend ODT powers until Jan. 31, 1948, in view of "the tremendous shortage of freight-car equipment" (p. 8385). By Sen. Saltonstall, Mass., to eliminate allocation controls over manila and agave fiber and cordage except that owned or contracted for by the Government on July 16, 1947, to establish priority and allocation in production of binder twine, baler twine, and rope (pp. 8385-7). By Sen. Hawkes, N. J., to continue authority for control of cinchona bark, quinine, and quinidine (pp. 8387-8).

Rejected the following amendments: By Sen. Butler, Nebr., to provide that grain exports shall be handled by private sources rather than the Government (pp. 8390-7). By Sen. Thomas, Okla., to abolish the historical-record system for export control (pp. 8388-90). By Sen. White, Maine, placing grains for distilling and brewing under control (p. 8387).

As passed by the Senate, H. R. 3647 provides for a limited continuation of allocations and priorities powers under the Second War Powers Act until not after June 30, 1948; continues export-control powers until not after June 30,

1948, but provides for an Administrator of Import and Export Controls in the Executive Office of the President to establish policies and programs and for an advisory committee to include the Secretary of Agriculture. For summary of the bill as passed by the House, see Digest 123.

2. RURAL ELECTRIFICATION. Passed without amendment S. 1087, which authorizes REA to refinance, out of its loan funds, obligations by certain municipalities (Athens and Sheffield, Ala., and Bolivar, Tenn.) to TVA, to the extent that such indebtedness was incurred with respect to electric transmission systems or portions thereof serving rural areas (pp. 8418-9).
3. CATTLE TICKS. Passed without amendment S. 1249, to authorize additional research and investigation into problems relating to eradication of cattle grubs, and eradication of these parasites either independently or on a cooperative basis (p. 8419).
4. RESEARCH LAND. Passed without amendment H. R. 195, to authorize USDA to sell to Sitka, Alaska, at its appraised value, a 1.3-acre tract formerly used as a site for agricultural research and weather service (p. 8419). This bill will now be sent to the President.
5. ACCOUNTING, ETC. Passed without amendment S. 1350, which authorizes GAO, if in concurrence of the department concerned, to relieve any disbursing or other accountable officer or agent or former disbursing or other accountable officer or agent of any department or agency charged with responsibility on account of physical loss or deficiency for any reason of Government funds, vouchers, checks, etc., if the department head determines that (1) the loss or deficiency occurred in discharge of official duties or by reason of an act or omission by a subordinate and (2) without fault or negligence, but that this authority shall not include illegal or erroneous payments (pp. 8439-40).
6. SMALL BUSINESS. Agreed, without amendment, to S. Con. Res. 14, favoring representation of small businessmen on policy-making bodies created by Executive appointment (pp. 8445-6).
7. NATIONAL FORESTS. The Public Lands Committee reported with amendments S.J. Res. 118, to authorize USDA to sell timber within the Tongass National Forest (S. Rept. 433) (p. 8399).
8. NOMINATION. The Agriculture and Forestry Committee reported favorably the nomination of James E. Wells to be Cooperative Bank Commissioner, FCA (p. 8400).
9. CROP INSURANCE. Discussed and passed over on objection of Sen. Taft, Ohio, S. 1326, to amend the Federal Crop Insurance Act with respect to limitations, etc., on crop insurance coverage (pp. 8440-1).
10. APPROPRIATIONS. Discussed and passed over on objection S. Con. Res. 6, to include all appropriation bills in one consolidated general appropriation bill (pp. 8444-5).
11. WORLD HEALTH ORGANIZATION. Discussed and passed over on objection S.J. Res. 98, to provide for U.S. participation in a World Health Organization (pp. 8447-8).
12. VETERANS' PREFERENCE. The Civil Service Committee reported with amendment S. 999, to amend the Veterans' Preference Act with respect to preference accorded in Federal employment to disabled veterans. (S. Rept. 428) (p. 8399).

AUTHORIZING THE SECRETARY OF AGRICULTURE TO SELL TIMBER WITHIN THE TONGASS NATIONAL FOREST, ALASKA

JULY 3 (legislative day, APRIL 21), 1947.—Ordered to be printed

Mr. BUTLER, from the Committee on Public Lands, submitted the following

REPORT

[To accompany S. J. Res. 118]

The Committee on Public Lands, to whom was referred the resolution (S. J. Res. 118) authorizing the Secretary of Agriculture to sell timber within the Tongass National Forest, Alaska, having considered same, report thereon with the recommendation that it do pass with the following amendments:

On page 1, line 8, strike out the figures "31" and insert the figure "3".

On page 2, strike out all of lines 8 and 9.

On page 2, line 18, after the word "impose" insert a new subsection designated as subsection "(c)", as follows:

No patent issued or timber sale made under this section shall include any lands actually possessed, used, or occupied for town sites, smokehouses, gardens, hunting and fishing cabins, or other buildings and structure, missionary stations, or burial grounds, or any timber actually possessed and used by any native tribes, native villages, native individuals or other persons.

On page 2, line 19, change the "(c)" to "(d)".

On page 3, line 1, after the word "to", insert the words "compensation for" and after the word "determined" insert a period.

On page 3, strike out all of line 2 and insert in lieu thereof the following:

Upon final determination of such claims, the Secretary of the Interior shall pay from such account to the native tribes, native villages, native individuals, or other persons found to be entitled thereto the amounts, if any, found to be due.

On page 3, line 6, after the word "Forest" insert a new subsection as follows:

(c) Any native tribe or village, native individual, or other person having been determined to have a valid claim for compensation for any lands or timber sold or granted under the provisions of this Act shall be entitled within five years after the date of the final determination of such claim to institute suit against the

United States either in the Court of Claims or in the district court of the United States having jurisdiction over such area to recover such sum, if any, in addition to the amount paid under subsection (a) to such tribe, village, individual, or other person, as may be necessary to compensate for the reasonable, fair, just, and equitable value of such lands or timber. Jurisdiction is hereby conferred upon the Court of Claims or the district court of the United States having jurisdiction over such area to hear and determine any suit so instituted and to enter final judgment against the United States therein for such sum, if any, as such court may determine to be necessary to provide consideration in all respects reasonable, fair, just, and equitable. Appellate review of any judgment so entered shall be in the same manner, and subject to the same limitations, as in the case of claims over which the Court of Claims has jurisdiction under section 145 of the Judicial Code, as amended (28 U. S. C., sec. 250), or as in the case of appellate review of any other judgment of the district court. Notwithstanding any contract to the contrary, not more than 10 per centum of the amount received or recovered by said tribe in satisfaction of any claim asserted under this section shall be paid to or received by any agent or attorney on account of services rendered in connection with such claim.

This proposed legislation was suggested by the Secretary of the Interior in a communication, dated May 16, 1947, addressed to the President of the Senate, who referred the same to your committee for consideration, and after due consideration and agreeable with the request of the Secretary of the Interior, your committee authorized the introduction of a Senate joint resolution identical in form to the draft of the proposed resolution submitted by the Secretary of the Interior; thereupon a Senate joint resolution (S. J. Res. 118) was introduced and referred to your committee for further consideration.

Legislation has already been enacted which provides appropriate methods whereby the Indian claimants may obtain a final determination of their rights to compensation for the value of any lands which may have been taken from them by the United States. On June 19, 1935 (56 Stat. 323), the Congress passed an act authorizing the Tlingit and Haida Indians of Alaska to bring suit in the Court of Claims, and conferring jurisdiction upon the court to hear, examine, adjudicate, and enter judgment upon any and all claims which such Indians may have, or claim to have, against the United States, for lands or other tribal or community-property rights claimed to have been owned by them and to have been taken by the United States without compensation. The time for instituting suit under such act has been extended from time to time, the latest extension being until June 4, 1951. On August 13, 1946, the Congress passed the Indian Claims Commission Act under which such claims for compensation may also be considered in the event suit thereon is not instituted under the act of June 19, 1935.

If, as a result of such final determination, the Indian claimants are found to be entitled to compensation for timber or land sold under the provisions of section 2 of Senate Joint Resolution 118, amounts received from such sales will be available for the payment of such compensation. In the event the Indian claimants are of the opinion that any such payment is inadequate to compensate them for any lands or timber sold under the provisions of Senate Joint Resolution 118 with respect to which they have established a valid claim for compensation, and for which they have not otherwise been compensated, they would be entitled to institute suit in the Court of Claims for such additional sum as might be necessary to compensate them for the reasonable, fair, just, and equitable value of the lands or timber so sold.

The said letter of the Secretary of the Interior, dated May 16, 1947, contains a full explanation of the purposes of this proposed legislation, a copy of which is attached hereto and made a part of this report, as follows:

THE SECRETARY OF THE INTERIOR,

Washington, May 16, 1947.

Hon. ARTHUR H. VANDENBERG,
President Pro Tempore of the Senate.

MY DEAR SENATOR VANDENBERG: I enclose a draft of a joint resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest, which I recommend be introduced and enacted.

The question of native land titles in the Territory of Alaska has remained, in the large, unresolved throughout the history of that Territory. It is not yet authoritatively settled whether the Alaskan Cession Treaty of 1867 (15 Stat. 539) preserved or extinguished, the native or aboriginal title to lands. If not extinguished, and if not subsequently abandoned, these rights exist in some form as a valid type of land ownership (*United States v. Santa Fe Pacific R. R. Co.* (314 U. S. 339), *Alcea Band of Tillamooks v. United States*, No. 26, October term, 1946, Supreme Court). Even if aboriginal title were extinguished by the 1867-treaty, native possessory rights may well remain, in one form or another, by virtue of legislative recognition. Thus, section 8 of the act of May 17, 1884 (23 Stat. 24), declared that "the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them." (See also section 14 of the act of March 3, 1891 (26 Stat. 1095), and section 27 of the Organic Act of June 6, 1900 (31 Stat. 321).)

The actual extent of native possessory rights has not yet been determined by the courts, nor has the Congress enacted any very clear definition of these rights. There has resulted a cloud upon land titles in Alaska, a tremendo is uncertainty as to the amount and the boundaries of the public domain in that Territory, and a thoroughgoing confusion, on the part of the natives and whites alike, as to the lands which are or may be held under native title. The problem has been a troublesome one for many decades, and has become especially acute in recent years in southeastern Alaska.

The widely divergent views as to the existing law and as to the proper procedures to be followed make it entirely certain that any legislation looking to a general settlement of the problem would be controversial and slow of enactment. I do not, therefore, consider that any complete solution can immediately be found to one extremely important and urgent need.

For almost 25 years it has been the very strong desire of all persons concerned with the development of Alaska to put the rich timber resources of southeastern Alaska to use, upon a sustained-yield basis, for the production of newsprint and other paper products. This potential development is now of great general interest because of the acute shortage of paper pulp. At one time or another various industrial interests have been close to action in concluding a contract with the Forest Service and making the large investment necessary to start such an enterprise. A variety of obstacles have in the past served, singly or in combination, to prevent the fruition of such a program. Only the cloud on the Forest Service title which is cast by the native claims remains as a formidable obstacle.

The prospective operators of the pulp mills are, quite naturally, unwilling to make the very heavy investment which is required to commence a pulp enterprise unless they have assurance that the Forest Service does in fact have control of the timber for which the contracts are made. In the present state of uncertainty as to the law and facts relating to native possessory rights in southeastern Alaska, no attorney would be willing, in a transaction of this magnitude, to assure the contractor or his underwriters that the Forest Service had a certainly good title to the timber within the boundaries of the Tongass National Forest. For, if the native title to a particular tract were a "valid, existing right" on September 10, 1907, when the Tongass National Forest was established, that tract is not included within the national forest. In such cases, one relies upon the Government grant or contract at his peril (*United States v. Santa Fe Pacific R. R. Co.*, *supra*; *Cramer v. United States*, 261 U. S. 219; *Jones v. Meehan*, 175 U. S. 1).

It would take a considerable number of years to settle the matter by litigation, and the timber development of southeastern Alaska cannot wait that long. Legislative action, therefore, is necessary. Even with respect to legislative action, our exploratory conversations have shown with much clarity that the various interested agencies and groups cannot quickly agree on the method by which

the matter is to be settled. Since the legislative session has drawn so near a close, it seems imperative to offer an interim solution, which will permit the timber development to go ahead, and to reserve for the more leisured consideration possible at the next session of the Congress the controversial question as to how the rights should be adjusted as between the natives and the United States.

The enclosed draft of a bill, accordingly, merely authorizes and validates the sale of national forest timber, and of the tracts of land necessary for constructing mill and town sites, notwithstanding that such timber or lands may be claimed by native tribes or villages or other persons.

All proceeds from the sale of timber and land would be held in a special account in the Treasury until the rights to the land and timber are finally determined by or under future legislation. It is the expectation that suitable legislation to settle the matter would be recommended to the Congress very early in its next session.

The bill, finally, makes plain that nothing in its provisions is designed to recognize or to deny the validity of any native or nonnative claims to lands or timber within the Tongass National Forest.

I have requested the Alaskan Native Service of this Department to explain the proposals to the native villages, and I am hopeful that there will be a rather general acceptance of this interim arrangement by those villages as well as by the other interests affected.

Legislation of this nature will remove the major existing obstacle to the establishment of a pulp industry in southeastern Alaska. I have been advised that two of the five major pulp timber units in southeastern Alaska will be ready for development as soon as legislation of this nature should be enacted. I need not emphasize the benefits from the early establishment of this industry to the hard-pressed consumers of wood pulp, to the Territory of Alaska, and to the added national security which will come from a development of that Territory. I hope, therefore, that the Congress will find it possible to consider this proposed bill at the earliest possible moment.

The Bureau of the Budget has advised me that there is no objection to the presentation of this proposed legislation to the Congress.

Sincerely yours,

J. A. KRUG,
Secretary of the Interior.

Calendar No. 446

80TH CONGRESS
1ST SESSION

S. J. RES. 118

[Report No. 433]

IN THE SENATE OF THE UNITED STATES

MAY 22 (legislative day, APRIL 21), 1947

Mr. BUTLER (by request) introduced the following joint resolution: which was read twice and referred to the Committee on Public Lands

JULY 3 (legislative day, APRIL 21), 1947

Reported by Mr. BUTLER, with amendments

[Omit the part struck through and insert the part printed in italic]

JOINT RESOLUTION

To authorize the Secretary of Agriculture to sell timber within the Tongass National Forest.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That "possessory rights" as used in this joint resolution
4 shall mean all rights, if any should exist, which are based
5 upon aboriginal occupancy or title, or upon section 8 of
6 the Act of May 17, 1884 (23 Stat. 24), section 14 of
7 the Act of March ~~34~~ 3, 1891 (26 Stat. 1095), or section 27
8 of the Act of June 6, 1900 (31 Stat. 321), whether
9 claimed by native tribes, native villages, native individuals,
10 or other persons, and which have not been confirmed by

1 patent or court decision or included within any reservation.

2 SEC. 2. (a) The Secretary of Agriculture, in contracts
3 for the sale, or in the sale, of national-forest timber under
4 the provisions of the Act of June 4, 1897 (30 Stat. 11,
5 35), as amended, is authorized to include timber growing
6 on any vacant, unappropriated, and unpatented lands within
7 the exterior boundaries of the Tongass National Forest in
8 Alaska, notwithstanding any claim of possessory rights,
9 ~~All such contracts and sales heretofore made are hereby~~
10 ~~validated.~~

11 (b) The Secretary of the Interior is authorized to
12 appraise and sell such vacant, unappropriated, and un-
13 patented lands, notwithstanding any claim of possessory
14 rights, within the exterior boundaries of the Tongass Na-
15 tional Forest, as, in the opinion of the Secretary of the
16 Interior and the Secretary of Agriculture, are reasonably
17 necessary in connection with or for the processing of timber
18 from lands within such national forest, and upon such terms
19 and conditions as they may impose.

20 (c) *No patent issued or timber sale made under this*
21 *section shall include any lands actually possessed, used,*
22 *or occupied for town sites, smokehouses, gardens, hunting*
23 *or fishing cabins, or other buildings and structure, missionary*
24 *stations, or burial grounds, or any timber actually possessed*

1 *and used by any native tribes, native villages, native indi-*
 2 *viduals, or other persons.*

3 ~~(e)~~ (d) The purchaser shall have and exercise his rights
 4 under any patent issued or contract to sell or sale made under
 5 this section free and clear of all claims based upon possessory
 6 rights.

7 SEC. 3. (a) All receipts from the sale of timber or
 8 from the sale of lands under section 2 of this joint resolution
 9 shall be maintained in a special account in the Treasury
 10 until the rights to *compensation for* the land and timber
 11 are finally determined ~~by or under future legislation~~. Upon
 12 *final determination of such claims, the Secretary of the*
 13 *Interior shall pay from such account to the native tribes,*
 14 *native villages, native individuals, or other persons found*
 15 *to be entitled thereto the amounts, if any, found to be due.*

16 (b) Nothing in this joint resolution shall be construed
 17 as recognizing or denying the validity of any claims ~~of~~ *for*
 18 *compensation based on* possessory rights to lands or timber
 19 within the exterior boundaries of the Tongass National
 20 Forest.

21 (c) Any native tribe or village, native individual, or
 22 other person having been determined to have a valid claim
 23 for compensation for any lands or timber sold or granted
 24 under the provisions of this Act shall be entitled within
 25 five years after the date of the final determination of such

1 claim to institute suit against the United States either in the
2 Court of Claims or in the district court of the United States
3 having jurisdiction over such area to recover such sum, if
4 any, in addition to the amount paid under subsection (a)
5 to such tribe, village, individual, or other person, as may be
6 necessary to compensate for the reasonable, fair, just, and
7 equitable value of such lands or timber. Jurisdiction is
8 hereby conferred upon the Court of Claims or the district
9 court of the United States having jurisdiction over such
10 area to hear and determine any suit so instituted and to
11 enter final judgment against the United States therein for
12 such sum, if any, as such court may determine to be neces-
13 sary to provide consideration in all respects reasonable, fair,
14 just, and equitable. Appellate review of any judgment so
15 entered shall be in the same manner, and subject to the
16 same limitations, as in the case of claims over which the
17 Court of Claims has jurisdiction under section 145 of the
18 Judicial Code, as amended (28 U. S. C., sec. 250), or
19 as in the case of appellate review of any other judgment
20 of the district court. Notwithstanding any contract to the
21 contrary, not more than 10 per centum of the amount
22 received or recovered by said tribe in satisfaction of any
23 claim asserted under this section shall be paid to or received
24 by any agent or attorney on account of services rendered
25 in connection with such claim.

[Report No. 433]

JOINT RESOLUTION

To authorize the Secretary of Agriculture to sell timber within the Tongass National Forest.

By Mr. BUTLER

MAY 22 (legislative day, APRIL 21), 1947

Read twice and referred to the Committee on
Public Lands

JULY 3 (legislative day, APRIL 21), 1947

Reported with amendments

no longer be justified since the Nation has not been at war for the past 18 months; and

"Whereas numerous commercial users of sugar have been able to continue processing without the degree of restraint imposed upon homes and home use in this country; and

"Whereas Michigan, in common with other great agricultural States, produces many crops which require sugar for preservation, such as cherries, berries, apples, and other fruits and vegetables; and

"Whereas in the past year losses from this source have been estimated at several millions of dollars: Now, therefore, be it

"Resolved by the house of representatives (the senate concurring). That the Congress of the United States is hereby requested to provide by law for an immediate increase in the allotment of sugar for home consumption and particularly for increases in sugar to be used in home canning; and be it further

"Resolved, That the Congress is requested to remove all controls from the sale and importation of sugar as soon as is possible; and be it further

"Resolved, That a copy of this memorial be sent to each Member of the Michigan delegation in Congress and to the President of the United States.

"Adopted by the house January 29, 1947.

"Adopted by the senate May 21, 1947."

A memorial of the house of representatives of the legislature of the State of Arizona; to the Committee on Finance:

"House Memorial 1

"Memorial on Federal contribution to old-age assistance

"To the Congress of the United States:

"Your memorialist respectfully represents:

"By the act of Congress of August 10, 1946 (Public Law 719, 79th Cong.), the Federal contribution to the States for old-age assistance, for a period terminating December 31, 1947, was fixed at a sum equal to two-thirds of the State's expenditure for the purpose up to \$15 per month for each beneficiary, plus one-half of the State's expenditure above \$15 and one-half of the expense of administration.

"The need thus recognized for an increase in the amount of assistance for aged citizens of the States will not pass with the date fixed for the termination of the Federal contribution, and Federal participation in this just and righteous cause will be equally as necessary as at present.

"Wherefore your memorialist, the house of representatives of the State of Arizona, requests:

"1. That the provisions of Public Law 719, Seventy-ninth Congress, relating to Federal participation in old-age assistance, be re-enacted and made permanent.

"Adopted by the house June 24, 1947."

A petition of sundry citizens of the State of Florida, praying for the enactment of the so-called Townsend plan to provide old-age assistance; to the Committee on Finance.

By Mr. WILEY:

A joint resolution of the Legislature of the State of Wisconsin; to the Committee on Foreign Relations:

"Assembly Joint Resolution 64

"Joint resolution memorializing the President and Congress of the United States to take steps necessary to authorize immediate development of the Great Lakes-St. Lawrence waterway

"Whereas the President has termed the proposed development of the Great Lakes-St. Lawrence waterway for travel by seagoing vessels more important to this Nation than any other comparable project; and

"Whereas for 50 years outstanding Americans in official and civilian life, concerned with the economic welfare of the people of

this country, have urged this undertaking as vital to the full development of the country's resources and inland transportation facilities; and for 20 years the governors and legislatures of the State of Wisconsin, regardless of political affiliation, have gone on record as favoring this great project; and

"Whereas every effort in the past to make this seaway a reality has failed because of vigorous opposition from selfish and sectional interests; and

"Whereas the urge for this seaway is today strong and viable and will continue so to be until the Great Lakes-St. Lawrence waterway is made adequate for navigation of seagoing vessels and furnishes Midwest farm, factory, mine, and shipyard products access to the markets of the world; and

"Whereas a seaway from the Great Lakes to the tidewaters of the Atlantic will increase our national security in time of crisis, aid in the restoration of our foreign markets, stimulate development of the resources of the Midwest, will lower transportation costs and will conserve our natural resources; and

"Whereas if authorized and undertaken as an immediate postwar work program, this project will furnish a full measure of opportunity for employment to military veterans; and

"Whereas legislation is now pending before both Houses of the National Congress to authorize construction of the St. Lawrence seaway project by agreement between the United States and Canada, Senators WILEY and MCCARTHY, of Wisconsin, being included among the distinguished sponsors of this legislation, reflecting Wisconsin's unalterable and continuing support of this great project: Now, therefore, be it

"Resolved by the assembly (the Senate concurring), That the Legislature of the State of Wisconsin memorializes the President and Congress of the United States to enact such legislation as may be necessary to authorize development of the Great Lakes-St. Lawrence waterway for navigation by seagoing vessels at the earliest practicable date; and be it further

"Resolved, That properly attested copies of this resolution be sent to the President, to the clerks of both Houses of the Congress, and to each Wisconsin Member thereof."

(The PRESIDENT pro tempore laid before the Senate a joint resolution of the Legislature of the State of Wisconsin, identical with the foregoing, which was referred to the Committee on Foreign Relations.)

DISCONTINUANCE OF PASSENGER SERVICE BY OLD COLONY RAILROAD

Mr. LODGE. Mr. President, on behalf of myself and my colleague the senior Senator from Massachusetts [Mr. SALTONSTALL], I ask unanimous consent to present for appropriate reference and to have printed in the RECORD, resolutions of the House of Representatives of the Commonwealth of Massachusetts, memorializing the Congress to enact the so-called Reed bill, relating to the threat of discontinuance of passenger service by the Old Colony Railroad.

There being no objection, the resolutions were received, referred to the Committee on Interstate and Foreign Commerce; and, under the rule, ordered to be printed in the RECORD, as follows:

Resolution memorializing the Congress of the United States in favor of the enactment of the Reed bill, so-called, whereby the threat of discontinuance of passenger service by the Old Colony Railroad will be removed

Whereas one-fifth of the population of the Commonwealth of Massachusetts is affected

by, and to a greater or lesser degree is dependent upon, passenger service on the lines of the Old Colony Railroad which operates between the city of Boston and the principal cities and towns of southeastern Massachusetts; and

Whereas the complete discontinuance and abandonment of such passenger service on the lines of the Old Colony Railroad is threatened under a plan of reorganization for the New Haven and Old Colony Railroads, which plan has been approved by the Interstate Commerce Commission and the United States circuit court of appeals, the granting of a writ of certiorari by the Supreme Court being the only hope of judicial relief; and

Whereas there is now pending in the Congress of the United States a bill known as the Reed bill (H. R. 3237) which, if enacted into law, will nullify the said plan of reorganization and thus remove the threat of discontinuance of passenger service on the said Old Colony Railroad; and

Whereas great investments in industrial and commercial enterprises, hotels and homes have been made in southeastern Massachusetts in the expectation that the passenger service on the Old Colony lines be maintained, as provided in the charter granted to the Old Colony Railroad by the Commonwealth of Massachusetts, and the discontinuance and abandonment of said passenger service would constitute a tragic injustice to said citizens of Massachusetts: Therefore be it

Resolved, That the House of Representatives of the General Court of Massachusetts urges the passage of said Reed bill (H. R. 3237); and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the State secretary to the President of the United States, to the Presiding Officer of each branch of Congress, and to the Members thereof from the New England States.

In house of representatives, adopted, June 26, 1947.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. O'CONNOR, from the Committee on Civil Service:

S. 999. A bill to amend the Veterans' Preference Act of 1944 with respect to preference accorded in Federal employment to disabled veterans, and for other purposes; with an amendment (Rept. No. 428).

By Mr. MOORE, from the Committee on Interstate and Foreign Commerce:

S. 1028. A bill to amend the Natural Gas Act approved June 21, 1938, as amended; without amendment (Rept. No. 429).

By Mr. BUTLER, from the Committee on Public Lands:

S. 794. A bill to authorize the sale of a small tract of land on the Cherokee Indian Reservation, N. C.; with an amendment (Rept. No. 423);

H. R. 2005. A bill to amend the act of April 21, 1932 (47 Stat. 88), entitled "An act to provide for the leasing of the segregated coal and asphalt deposits of the Choctaw and Chickasaw Indian Nations, in Oklahoma, and for an extension of time within which purchasers of such deposits may complete payments"; without amendment (Rept. No. 424);

S. J. Res. 94. Joint resolution to establish the Fort Sumter National Monument in the State of South Carolina; without amendment (Rept. No. 430);

S. J. Res. 118. Joint resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest; with amendments (Rept. No. 433); and

S. J. Res. 130. Joint resolution establishing a code for health and safety in bituminous coal and lignite mines of the United States

the products of which regularly enter commerce or the operations of which substantially affect commerce; with amendments (Rept. No. 431).

By Mr. AIKEN, from the Committee on Labor and Public Welfare:

S. 472. A bill to authorize the appropriation of funds to assist the States and Territories in financing a minimum foundation education program of public elementary and secondary schools, and in reducing the inequalities of educational opportunities through public elementary and secondary schools, for the general welfare, and for other purposes; with an amendment (Rept. No. 425).

By Mr. CHAVEZ, from the Committee on Civil Service:

S. 995. A bill to amend the Civil Service Retirement Act so as to make such Act applicable to the officers and employees of the Columbia Institution for the Deaf; without amendment (Rept. No. 426); and

S. 1324. A bill to amend the Civil Service Retirement Act so as to make such act applicable to the officers and employees of the National Library for the Blind; without amendment (Rept. No. 427).

By Mr. REED, from the Committee on Interstate and Foreign Commerce:

S. 249. A bill to amend the Interstate Commerce Act, as amended, and for other purposes; with amendments (Rept. No. 432).

By Mr. GURNEY, from the Committee on Armed Services:

S. 1502. A bill to authorize the contribution to the International Children's Emergency Fund of the United Nations of an amount equal to the moneys received by the Selective Service System for the services of persons assigned to work of national importance under civilian direction pursuant to section 5 (g) of the Selective Training and Service Act of 1940; without amendment (Rept. No. 434).

By Mr. AIKEN, from the Committee on Expenditures in the Executive Departments:

S. 1515. A bill to make surplus property available for the alleviation of damage caused by flood or other catastrophe; with an amendment (Rept. No. 435).

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. GURNEY, from the Committee on Armed Services:

Rear Adm. Albert G. Noble, United States Navy, to be Chief of the Bureau of Ordnance in the Department of the Navy, for a term of 4 years;

John W. Drury, of Connecticut, and sundry other citizens, to be second lieutenants in the Marine Corps;

Bernard N. Bloom, and sundry other officers to be ensigns in the Navy; Joseph W. Neudecker, Jr., to be an assistant civil engineer in the Navy; and Francis Roche, to be an assistant paymaster in the Navy with the rank of ensign;

George F. Stearns, Jr., and sundry other officers for appointment in the United States Navy;

Lt. Col. Cranford Coleman Bryan Warden, and sundry other officers for appointment, by transfer, in the Regular Army of the United States;

Brig. Gen. Edward Courtney Bullock Danforth, Jr., and sundry other officers for ap-

pointment in the Officers' Reserve Corps in the Army of the United States; and

Florence A. Blanchfield, and sundry other persons for appointment in the Regular Army in the Army Nurse Corps.

By Mr. CAPPER, from the Committee on Agriculture and Forestry:

James Earl Wells, Jr., of South Dakota, to be Cooperative Bank Commissioner of the Farm Credit Administration.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BUTLER (by request):

S. 1565. A bill to provide for the per capita distribution of certain funds in the Treasury of the United States to the credit of the Indians of California, and for other purposes; to the Committee on Public Lands.

By Mr. WHERRY:

S. 1566. A bill to provide for greater efficiency of the military forces of the United States in occupied countries, and for other purposes; to the Committee on Armed Services.

By Mr. WILEY:

S. 1567. A bill to provide the venue in actions brought in United States District Courts or in State courts against interstate commerce carriers by railroad for damages for wrongful death or personal injuries; to the Committee on the Judiciary.

By Mr. ECTON:

S. 1568. A bill authorizing the issuance of a patent in fee to Mary K. Reed, to the Committee on Public Lands.

By Mr. IVES:

S. 1569. A bill to provide for the construction of a water-filtration plant on the military reservation at West Point, N. Y., and for other purposes; to the Committee on Armed Services.

By Mr. VANDENBERG:

S. J. Res. 143. Joint resolution authorizing the President to approve the trusteeship agreement for the territory of the Pacific Islands; to the Committee on Foreign Relations.

(Mr. IVES (for himself and Mr. WAGNER) introduced Senate Joint Resolution 144, authorizing the President to bring into effect an agreement between the United States and the United Nations for the purpose of establishing the permanent headquarters of the United Nations in the United States and authorizing the taking of measures necessary to facilitate compliance with the provisions of such agreement; and for other purposes, which was referred to the Committee on Foreign Relations, and appears under a separate heading.)

(Mr. McCARRAN (for himself, Mr. Downey, Mr. KNOWLAND, and Mr. MALONE) introduced Senate Joint Resolution 145, to authorize commencement of an action by the United States to determine interstate water rights in the Colorado River, which appears under a separate heading.)

UNIFICATION OF ARMED SERVICES—AMENDMENTS

Mr. ROBERTSON of Wyoming submitted sundry amendments intended to be proposed by him to the bill (S. 758) to promote the national security by providing for a National Defense Establishment, which shall be administered by a Secretary of National Defense, and for a Department of the Army, a Department of the Navy, and a Department of the Air Force within the National Defense Establishment, and for the coordination of the activities of the National Defense Establishment with other departments and agencies of the Government concerned

with the national security, which were severally ordered to lie on the table and to be printed.

HOUSE BILL REFERRED

The bill (H. R. 4002) making appropriations for civil functions administered by the War Department for the fiscal year ending June 30, 1948, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

PERMANENT HEADQUARTERS OF UNITED NATIONS

Mr. IVES. Mr. President, yesterday the President of the United States sent a message to the Congress transmitting an agreement which has been made between the United States and the United Nations concerning the control and administration of the United Nations headquarters in the city of New York. In the message the President urged early consideration of the matter by the Congress and asked that appropriate action be taken by joint resolution to bring about the effectiveness of the agreement, insofar as this country is concerned. The senior Senator from New York [Mr. WAGNER] and myself have been granted the privilege of introducing an appropriate joint resolution authorizing the President to bring into effect an agreement between the United States and the United Nations for the purpose of establishing permanent headquarters of the United Nations in the United States and authorizing the taking of measures necessary to facilitate compliance with the provisions of such agreement, and for other purposes.

Mr. President, I now ask unanimous consent to introduce this joint resolution and to have it referred to the appropriate committee.

The PRESIDENT pro tempore. Without objection, the joint resolution will be received and referred to the Committee on Foreign Relations.

There being no objection, the joint resolution (S. J. Res. 144) authorizing the President to bring into effect an agreement between the United States and the United Nations for the purpose of establishing the permanent headquarters of the United Nations in the United States and authorizing the taking of measures necessary to facilitate compliance with the provisions of such agreement; and for other purposes, introduced by Mr. IVES (for himself and Mr. WAGNER), was received, read twice by its title and referred to the Committee on Foreign Relations.

INTERSTATE WATER RIGHTS IN COLORADO RIVER SYSTEM

Mr. McCARRAN. Mr. President, the Senate Committee on Public Lands has under consideration Senate bill 1175, a bill to authorize the construction of the central Arizona project.

THE PROJECT

The project would consist primarily of the Bridge Canyon Dam on the Colorado River above Boulder Dam, and an aqueduct to transport Colorado River water to central Arizona, through tunnels over 80 miles long, bypassing Boulder Dam. Initially, however, in-

DIGEST OF CONGRESSIONAL PROCEEDINGS OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports
(For Department staff only)

Issued July 10, 1947
For actions of July 9, 1947
80th-1st, No. 130

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HIGHLIGHTS: Senate passed Aiken crop-insurance bill. House debated sugar bill. House committee ordered reported bills to permit timber sales in Tongass Forest; to make specific provision for milk-price support, to provide for Alaska settlement by veterans, and to amend Reclamation Act. Rep. Hardy introduced bill to amend AAA Act re peanut marketing quotas. President approved State, Justice, Commerce, Judiciary appropriation bill.

SENATE

1. CROP INSURANCE. Passed with amendments S. 1326, to place the crop-insurance program on a limited basis (pp. 8698-9). Agreed to an amendment by Sen. Aiken, Vt., to authorize \$25,000,000 additional capital instead of \$50,000,000 as proposed in the bill as reported (p. 8699). For provisions of bill see Digest 111.
2. COMMITTEE STAFF. The Chairman of the Agriculture and Forestry Committee submitted a report on the names and salaries of the Committee staff (p. 8655).
3. APPROPRIATIONS. The Appropriations Committee reported with amendments: H. R. 3993, the legislative appropriation bill (S. Rept. 467) (p. 8655); and H. R. 3678, the military appropriation bill (S. Rept. 465) (p. 8655).
4. DAYLIGHT SAVING TIME. The D. C. Committee reported without amendment S. 1481, to authorize the D. C. Commissioners to establish daylight-saving time in D. C. during the summer of each year (p. 8655).

HOUSE

5. SUGAR. Began debate on H. R. 4075, the sugar bill (pp. 8720-31).
6. D. C. APPROPRIATION BILL. Passed with amendments this bill, H. R. 4106 (pp. 8706-19).
7. FOOD SHIPMENTS. Rep. Vorys, Ohio, inserted a State Department report on shipments of food from Greece to U. S., and H. Res. 258, requesting this information, was laid on the table (p. 8704). Reps. Rogers, Mass., and Rich, Pa.,

expressed dissatisfaction with the report (pp. 8704-5).

8. SUGAR. Rep. Eberharter, Pa., said the intent of Congress is being disregarded concerning allocation of sugar for industrial users and recommended termination of these controls (p. 8705).
9. STOCKPILING. Received from this Department a proposed bill to amend the Strategic and Critical Materials Stock Piling Act so as to enable CCC to be compensated for materials transferred to the stockpile in the same manner as is now provided for RFC, by cancellation of Treasury notes; to Armed Services Committee (p. 8736).
10. FOREST TIMBER. The Agriculture Committee ordered reported (but did not actually report) H.J.Res. 205, to provide for the sale of timber within the Tongass National Forest (p. D508).
11. MILK PRICE SUPPORTS. The Banking and Currency Committee ordered reported (but did not actually report) H.R. 3370, to provide for a support price of milk (p. D508). The Daily Digest states: "Under the bill the Secretary of Agriculture is directed to announce the support price for all milk produced in the United States until December 31, 1948. The announced support price shall be for a period of 3 or 6 months and shall be 'at not less than 90 percent of parity' and shall include all milk regardless of its ultimate use. The Secretary of Agriculture is directed to make this announcement within 60 days after the effective date of the act."
12. LANDS. The Public Lands Committee ordered reported (but did not actually report) the following bills: H.R. 2867, to permit mining in Harney National Forest; H.R. 2873, to amend the provisions of the Reclamation Project Act of 1939; H.R. 3218, to provide emergency funds for the Bureau of Reclamation operation; H.R. 3971, to increase size of isolated or disconnected tracts that can be sold; H.R. 4059, to provide for settlement of parts of Alaska by war veterans; H.R. 4079, to amend the Taylor Grazing Act regarding grazing fees and permits; S. 753, to defer collection of construction charges, Flathead Irrigation project; and S. 1185, to provide for disposal of certain materials on public lands (pp. D509-10).

BILLS INTRODUCED

13. PEANUTS; AACT. H.R. 4124, by Rep. Hardy, Va., to amend the peanut marketing quota provisions of the Agricultural Adjustment Act. To Agriculture Committee. (p. 8737.)
14. PUBLIC WORKS. H.R. 4125, by Rep. Rains, Ala., relating to loans by Federal agencies for the construction of certain public works. To Public Works Committee. (p. 8737.)
15. FLOOD CONTROL. H.R. 4126, by Rep. Ramey, Ohio, to include the Howard Farms Reno area, Lucas County, Ohio, within the provisions of the Flood Control Act of June 22, 1936. To Public Works Committee. (p. 8737.)
16. PERSONNEL. H.R. 4127, by Rep. Stevenson, Wis., "to amend the Civil Service Retirement Act." To Post Office and Civil Service Committee. (p. 8737.)
17. RECONSTRUCTION FINANCE CORPORATION. S. 1587, by Sen. Johnston, S.C., to amend the Reconstruction Finance Corporation Act so as to authorize the RFC to purchase home loans guaranteed or insured under the G.I. Bill. To Banking and

VETERANS' SUBSISTENCE

Committee on Labor and Public Welfare: Subcommittee approved for reporting to committee, at next meeting, S. 1236, to increase monthly subsistence for vocational rehabilitation to veterans in service-connected cases, to \$115 without dependents, \$145 with a dependent, plus \$20 for one child and \$15 for each additional, and \$25 for a dependent parent, with amendments.

HEALTH LEGISLATION

Committee on Labor and Public Welfare: Subcommittee, continuing hearings on S. 545, to create an independent national health agency, and S. 1320, National Health Insurance and Public Health Act of 1947, heard the following witnesses testify generally in support of S. 1320: E. F. Poss, Fraternal Order of Eagles, Springfield, Ohio; Watson B. Miller, FSA Administrator; Dr. Thomas Parran, U. S. Surgeon General; and Katharine F. Lenroot and William L. Mitchell, both of Social Security Administration.

WEST VIRGINIA CONTESTED ELECTION

Committee on Rules and Administration: Subcommittee on Privileges and Elections, in executive session, agreed to recommend to full committee that a full scale investigation be conducted into election frauds and irregularities alleged by complaint to exist in 12 counties in West Virginia senatorial election contest.

Subcommittee also agreed to request that counsel for both Senator O'Connor and D. John Markey in Maryland senatorial election contest be asked to expedite their review of challenged ballots.

SMALL BUSINESS—STEEL

Special Committee to Study Problems of American Small Business: Walter S. Tower, American Iron & Steel Institute, N. Y., discussed over-all steel supply and the needs of smaller manufacturers before Subcommittee on Steel. R. B. Townsend, Baker Manufacturing Co., Omaha; H. T. Berry, Chandler Co., Cedar Rapids; and A. J. Legeson, R. R. Howell Co., Minneapolis, told of their needs of steel pipe and available supply. Hearings continue tomorrow.

House of Representatives

Chamber Action

Bills Introduced: Nine public bills, H. R. 4119-4127; eight private bills, H. R. 4128-4135; and fourteen resolutions, H. Res. 277-279, and H. Con Res. 58-68, were introduced.

Page 8737

Bills Reported: Bills and resolutions were reported as follows:

H. Res. 278, rule granting 1 hour's general debate on H. R. 4051, amending Natural Gas Act relative to jurisdiction of Federal Power Commission fixing rates for sale of natural gas in interstate commerce (H. Rept. 811);

H. Res. 279, rule granting 1 hour's general debate on H. R. 3682, extending period to provide assistance for certain war-incurred school enrollments (H. Rept. 812);

H. R. 774, permitting the Secretary of the Treasury to dispose of certain obsolete combat materials by loan or gift (H. Rept. 815);

H. R. 2744, providing for elimination of Regular Army officers and for retirement of Regular Army personnel and personnel of the reserved components of all services (H. Rept. 816); and

S. 564, Presidential succession bill (H. Rept. 817).

Page 8737

House Employee: Considered, reported, and agreed to H. Res. 266 (H. Rept. 813), granting 6 months' salary and \$250 toward defrayment of funeral expenses to widow of late House employee.

Page 8702

Food Shipments: Considered adverse report (H. Rept. 814), on H. Res. 258, requesting Secretary of State to furnish House of Representatives full information relative to food shipped from Greece to this country; which resolution was ordered to lie on the table.

Page 8704

Presidential Signature: Agreed to Senate amendments, thereby completing all legislative action, on the following private claims bills: H. R. 1585, H. R. 1658, H. R. 1954, and H. R. 1956.

Page 8702

Bills Referred: The following Senate-passed bills were referred to the committees indicated: S. J. Res. 98 (Foreign Affairs), and S. 1515 (Expenditures in the Executive Departments). (For passage in Senate, see Digest, p. D489 and 490.)

D. C. Appropriations: Passed by voice vote, H. R. 4106, the District of Columbia appropriation bill for 1948. As passed, this measure supplies \$95,918,400 for the operations of the essential functions of the D. C. Government, which amount is \$105,350 above the Budget estimate for 1948 and \$10,216,063 above the amount appropriated for the same functions in 1947. This is the last of the regular departmental appropriation bills for 1948 to be sent to the Senate in this session.

Pages 8706-8719

Sugar Bill: Adopted H. Res. 273, special rule waiving points of order against, and granting 2 hours' general

debate on, H. R. 4075, a bill designed to stabilize sugar-producing, refining, and importing industries. Completed about an hour of the general debate and postponed further consideration until Thursday.

Pages 8720-8731

Program for Thursday: Adjourned at 5:37 p. m., until 11 a. m., Thursday, July 10. Unfinished business of H. R. 4075, the sugar bill for 1948, is tentatively scheduled, and S. 564, Presidential succession bill, is eligible for consideration at any time.

Reports on Committee Meetings

TONGASS NATIONAL FOREST

Committee on Agriculture: Concluded hearings on H. J. Res. 205, sale of timber within Tongass National Forest, and heard Charles F. Brannon, Assistant Secretary of Agriculture; M. G. White, Solicitor for Department of the Interior. Later, in executive session, the committee ordered the bill favorably reported, as amended.

UNIVERSAL MILITARY TRAINING

Committee on Armed Services: Full committee continued hearings on the subject of universal military training, and heard William Gausmann, Washington representative, Socialist Party, U. S. A.; Edwin Lupow, representing the Young Progressive Citizens of America; Charles Bolling, vice chairman, American Veterans' Committee; and Perry Brown, chairman, American Legion Security Committee. Hearings will continue tomorrow.

Pay and Administration Subcommittee met and ordered favorably reported to the full committee, with amendment, H. R. 3540, to authorize the payment of certain claims for medical care and treatment of Service personnel.

MEAT SUBSIDIES—MILK SUPPORT

Committee on Banking and Currency: Held hearings on H. R. 1976 and H. R. 3738, providing for retroactive premium payments to certain slaughterers, and heard Representatives Sikes and Havenner; George Zeigler, representing the Southern Packing Co. of Tallahassee, Fla.; and Barnett Samski, representing J. G. Johnson, Inc., of San Francisco, Calif., all of whom testified in favor of the bill.

Met in executive session on H. R. 3370, providing for a support price of milk, and ordered the bill favorably reported, with amendment. Under the bill the Secretary of Agriculture is directed to announce the support price for all milk produced in the United States until December 31, 1948. The announced support price shall be for a period of 3 or 6 months and shall be "at not less than 90 percent of parity" and shall include all milk regardless of its ultimate use.

The Secretary of Agriculture is directed to make this announcement within 60 days after the effective date of the act.

D. C. HOME RULE

Committee on the District of Columbia: Subcommittee on Home Rule and Reorganization continued hearings on Federal agencies operating in the District of Columbia, and heard David Lynn, Architect of the Capitol; Preston Delano, Comptroller of Currency; Gen. U. S. Grant, NCPPC; and B. T. Simms, Bureau of Animal Industry.

Subcommittee on Public Service, Streets, and Traffic met with Commissioner John Russell Young and Maj. Robert J. Barrett, Chief of Police, on H. R. 3978, temporary promotion of police lieutenants under certain conditions; and H. R. 2471, reimbursement of D. C. for Park Police uniforms, etc.

MINIMUM WAGE

Committee on Education and Labor: Subcommittee on Wages and Hours of Labor continued hearings on H. R. 3886, increasing minimum wage rate, and heard Emerson P. Schmidt, director, Economic Research Department, Chamber of Commerce of U. S. A.; William T. Jobe, general counsel, National Association of Ice Industries; and Tyre Taylor, general counsel, Southern States Industrial Council; all of whom testified in opposition to the bill. Hearings will continue tomorrow.

NATIONAL SECURITY ACT OF 1947

Committee on Expenditures in the Executive Departments: Subcommittee to mark up H. R. 2319, National Security Act of 1947, met in executive session. Meeting will continue tomorrow.

INTER-AMERICAN MILITARY COOPERATION

Committee on Foreign Affairs: Met in executive session on H. R. 3835, Inter-American Military Cooperation Act. Meeting will continue tomorrow.

Subcommittee on International Organizations and Law met and considered H. R. 4010, International Organizations Purchases Act.

PRINTING AUTHORIZATIONS—150TH D. C. ANNIVERSARY

Committee on House Administration: Met in executive session and ordered favorably reported to the House the following: H. Con. Res. 45, providing for printing 4,000 additional copies of hearings on Hartley labor bill; H. Res. 264, authorizing printing as a House Document "Amendments to Rules of Civil Procedure for the District Courts of the United States" and "Report of Proposed Amendments to Rules of Civil Procedure for the District Courts of the United States"; and S. J. Res. 129, commemorating 150th anniversary of establishment of Federal Government in the District of Columbia.

DIGEST OF
CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports
(For Department staff only)

Issued July 11, 1947
For actions of July 10, 1947
80th-1st, No. 131

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HIGHLIGHTS: House debated sugar bill. House received conference report on bill to continue certain export-control, allocations, and priorities powers. Sen. Capper introduced bill to provide for liquidation of State rural-rehabilitation corporations. Rep. Andrews introduced bill to pay CCC for material transferred to stockpile. House committee reported Science Foundation bill and Tongass Forest timber-sales bill. Reps. Coolley and Hill introduced bills to coordinate soil- and water-conservation programs. Senate committee reported bill authorizing Mexican fence. Sen. Thomas (Okla.) inserted Alaska Indians' statement against Tongass Forest bill. Sen. Morse inserted Budget Bureau study on "estimated capital expenditures."

HOUSE

- 1. SUGAR.** Continued debate on H. R. 4075, the sugar bill (pp. 8809-26). Rep. Flanagan, Va., strongly criticized the bill, and Rep. Marcantonio, N. Y., criticized the labor-standards provisions.
Rep. Eberharter, Pa., charged that the Department's employees "are actually on a sit-down strike" in rationing sugar to industrial users (pp. 8791-2).
- 2. WAR POWERS.** Received the conference report on H. R. 3647, the "Second Decontrol Act of 1947" (pp. 8807-9). The conferees agreed to a new version of the bill, which is printed in the Record. The revised bill continues certain export-control, allocations, and priorities powers through Feb. 29, 1948; continues allocations on rice (for import control only), quinine and related products (in certain cases), transportation facilities; and empowers the Secretary of Commerce to establish policies and programs and to exercise over-all control under the bill. The bill would be effective July 16, 1947.
- 3. FARM PROGRAM.** Rep. Dolliver, Iowa, spoke in favor of price supports, soil conservation, and provision for attractive farm life as parts of a long-range farm program (p. 8790).
- 4. PUBLIC WORKS.** The Rules Committee reported without amendment H. Res. 211, directing the Public Works Committee to study works of improvement under its jurisdiction with a view to determining if legislation regarding such projects should be enacted (p. 8807).
- 5. PRESIDENTIAL SUCCESSION.** Passed, 365-11; without amendment S. 564, the

Presidential succession bill, which includes the Secretary of Agriculture in the line of succession (pp. 8792-807). This bill will now be sent to the President.

6. NATIONAL SCIENCE FOUNDATION. The Interstate and Foreign Commerce Committee reported with amendment H.R. 4102, to create a National Science Foundation (H. Rept. 864) (p. 8827).
7. NATIONAL FOREST. The Agriculture Committee reported with amendments H.J.Res. 205, to provide for the sale of timber in the Tongass National Forest (H.Rept. 873) (p. 8827).
8. RECLAMATION. The Public Lands Committee reported without amendment H.R. 3218, to provide an emergency fund for the Bureau of Reclamation operations (H.Rept. 860) (p. 8827).
The Public Lands Committee reported without amendment S. 753, to authorize Interior Department to defer collection of certain irrigation construction charges against lands under the Flathead Indian irrigation project (H.Rept.868) (p. 8827).
9. LANDS. The Public Lands Committee reported without amendment H.R. 3971, to increase the size of isolated or disconnected tracts or parcels of the public domain which may be sold (H.Rept. 855) (p. 8827).
The Public Lands Committee reported with amendments S. 1185, to provide for the disposal of certain materials on the U.S. public lands (H.Rept. 867) (p. 8827).
The Public Lands Committee reported with amendment H.R. 1710, to authorize a survey of a proposed Mississippi River Parkway for the purpose of determining the feasibility of a national parkway (H.Rept. 865) (p. 8827).
10. PURCHASING. Received the GAO report of activities under the Contract Settlement Act; to Judiciary Committee (p. 8826).
11. FOOD AND DRUGS. H.R. 4071 as reported (see Digest 129) would amend the Federal Food, Drug, and Cosmetic Act so as to authorize enforcement of the act in cases of adulteration or misbranding of goods held for resale, and seizure of such goods not only while in interstate commerce but while being held for sale.

SENATE

12. LEGISLATIVE APPROPRIATION BILL, 1948. Passed with amendments this bill, H.R. 3993 (pp. 8774-5). Sens. Young, Bridges, Saltonstall, Dworshak, Overton, Tydings, and Green were appointed conferees (p. 8775). As passed by the Senate the bill includes the following changes for the Library of Congress: Increases of \$205,798 for the Library proper; \$135,000 for the Copyright Office; \$100,000 for the Legislative Reference Service; and \$35,000 for preparation of a revised edition of the Annotated Constitution of the U.S. An \$85,000 item to provide for a motion-picture program in the Library of Congress was stricken from the bill.
13. WAR DEPARTMENT MILITARY APPROPRIATION BILL, 1948. Began debate on this bill, H.R. 3678 (pp. 8715-87). No agreement was reached on amendments to exclude certain War Department civilian employees from the personnel-ceiling provisions.
14. MEXICAN-BORDER FENCE. The Foreign Relations Committee reported with amendments S.J.Res. 46, to authorize appropriations for the construction, operation, and

AUTHORIZING THE SECRETARY OF AGRICULTURE TO
SELL TIMBER WITHIN THE TONGASS NATIONAL
FOREST

JULY 10, 1947.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HOPE, from the Committee on Agriculture, submitted the
following

REPORT

[To accompany H. J. Res. 205]

The Committee on Agriculture, to whom was referred the resolution (H. J. Res. 205) authorizing the Secretary of Agriculture to sell timber within the Tongass National Forest, having considered the same, report favorably thereon with the recommendation that it do pass with the following amendments:

On page 1, line 7, strike out the numerals "31" and insert in lieu thereof the numeral "3".

On page 3, lines 1 and 2, strike out the words "by or under future legislation".

The purpose of and urgent need for legislation of the sort proposed in this resolution are explained in detail by the Secretary of the Interior in a letter which he addressed to the Speaker of the House of Representatives on May 16, 1947. That letter is set out in full below as a part of this report:

THE DEPARTMENT OF THE INTERIOR,
Washington, May 16, 1947.

HON. JOSEPH W. MARTIN, JR.,
Speaker of the House of Representatives.

MY DEAR MR. SPEAKER: I enclose a draft of a joint resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest, which I recommend be introduced and enacted.

The question of native land titles in the Territory of Alaska has remained, in the large, unresolved throughout the history of that Territory. It is not yet authoritatively settled whether the Alaskan Cession Treaty of 1867 (15 Stat. 539) preserved or extinguished, the native or aboriginal title to lands. If not extinguished, and if not subsequently abandoned, these rights exist in some form as a valid type of land ownership. *United States v. Santa Fe Pacific R. R. Co.* (314 U. S. 339), *Alcea Band of Tillamooks v. United States* (No. 26, October Term 1946, Supreme Court). Even if aboriginal title were extinguished by the 1867 treaty, native possessory rights may well remain, in one form or another, by virtue of legislative recognition. Thus, section 8 of the act of May 27, 1884 (23 Stat. 24), declared that "the Indians or other persons in said district shall not be disturbed

in the possession of any lands actually in their use or occupation or now claimed by them." See, also, section 14 of the act of March 3, 1891 (26 Stat. 1095), and section 27 of the organic act of June 6, 1900 (31 Stat. 321).

The actual extent of native possessory rights has not yet been determined by the courts, nor has the Congress enacted any very clear definition of these rights. There has resulted a cloud upon land titles in Alaska, a tremendous uncertainty as to the amount and the boundaries of the public domain in that Territory, and a thoroughgoing confusion, on the part of the natives and whites alike, as to the lands which are or may be held under native title. The problem has been a troublesome one for many decades, and has become especially acute in recent years in southeastern Alaska.

The widely divergent views as to the existing law and as to the proper procedures to be followed make it entirely certain that any legislation looking to a general settlement of the problem would be controversial and slow of enactment. I do not, therefore, consider that any complete solution can immediately be found to one extremely important and urgent need.

For almost 25 years it has been the very strong desire of all persons concerned with the development of Alaska to put the rich timber resources of southeastern Alaska to use, upon a sustained yield basis, for the production of newsprint and other paper products. This potential development is now of great general interest because of the acute shortage of paper pulp. At one time or another various industrial interests have been close to action in concluding a contract with the Forest Service and making the large investment necessary to start such an enterprise. A variety of obstacles have in the past served, singly or in combination, to prevent the fruition of such a program. Only the cloud on the Forest Service title which is cast by the native claims remains as a formidable obstacle.

The prospective operators of the pulp mills are, quite naturally, unwilling to make the very heavy investment which is required to commence a pulp enterprise unless they have assurance that the Forest Service does in fact have control of the timber for which the contracts are made. In the present state of uncertainty as to the law and facts relating to native possessory rights in southeastern Alaska, no attorney would be willing, in a transaction of this magnitude, to assure the contractor or his underwriters that the Forest Service had a certainly good title to the timber within the boundaries of the Tongass National Forest. For, if the native title to a particular tract were a "valid, existing right" on September 10, 1907, when the Tongass National Forest was established, that tract is not included within the national forest. In such cases, one relies upon the Government grant or contract at his peril. *United States v. Santa Fe Pacific R. R. Co.*, *supra*; *Cramer v. United States* (261 U. S. 219); *Jones v. Meehan* (175 U. S. 1).

It would take a considerable number of years to settle the matter by litigation and the timber development of southeastern Alaska cannot wait that long. Legislative action, therefore, is necessary. Even with respect to legislative action, our exploratory conversations have shown with much clarity that the various interested agencies and groups cannot quickly agree on the method by which the matter is to be settled. Since the legislative session has drawn so near a close, it seems imperative to offer an interim solution, which will permit the timber development to go ahead, and to reserve for the more leisured consideration possible at the next session of the Congress the controversial question as to how the rights should be adjusted as between the natives and the United States.

The enclosed draft of a bill, accordingly, merely authorizes and validates the sale of national forest timber, and of the tracts of land necessary for constructing mill and town sites, notwithstanding that such timber or lands may be claimed by native tribes or villages or other persons.

All proceeds from the sale of timber and land would be held in a special account in the Treasury until the rights to the land and timber are finally determined by or under future legislation. It is the expectation that suitable legislation to settle the matter would be recommended to the Congress very early in its next session.

The bill, finally, makes plain that nothing in its provisions is designed to recognize or to deny the validity of any native or nonnative claims to lands or timber within the Tongass National Forest.

I have requested the Alaskan Native Service of this Department to explain the proposals to the native villages and I am hopeful that there will be a rather general acceptance of this interim arrangement by those villages as well as by the other interests affected.

Legislation of this nature will remove the major existing obstacle to the establishment of a pulp industry in southeastern Alaska. I have been advised that two of the five major pulp timber units in southeastern Alaska will be ready for development as soon as legislation of this nature should be enacted. I need not emphasize the benefits from the early establishment of this industry to the hard-pressed consumers of wood pulp, to the Territory of Alaska, and to the added national security which will come from a development of that Territory. I hope, therefore, that the Congress will find it possible to consider this proposed bill at the earliest possible moment.

The Bureau of the Budget has advised me that there is no objection to the presentation of this proposed legislation to the Congress.

Sincerely yours,

J. A. KRUG,
Secretary of the Interior.

Enclosure 623.

Upon the basis of the representations made by the Secretary of the Interior in his letter of May 16, quoted above, and also upon the basis of oral testimony and written evidence received by the committee during the course of hearings which were held upon the proposed resolution, it is believed that the prompt enactment of this measure is of the utmost importance to the Territory of Alaska and to the United States as a whole.

A large-scale development of the timber resources in southeastern Alaska, involving the establishment of important business enterprises and the employment of many persons for extensive operations on a year-round basis, is essential to the maintenance of a prosperous and stable economy in the Territory. Heretofore, Alaska has been handicapped by the seasonal nature of the principal industrial activities conducted within the area. A timber program of the sort mentioned by the Secretary of the Interior would be of great benefit in assisting the people of Alaska to progress from the present dependence upon seasonal business operations. Moreover, such a development within the Territory would be of great value to the Nation as a whole, both from the standpoint of making available to the national economy valuable and sorely needed products from the great forests in southeastern Alaska and from the standpoint of promoting the national defense through increasing the population and industrial capacity of Alaska as our "Northern Rampart."

-It appears that, as a practical matter, the inauguration of a timber development program of the sort envisioned by the Secretary of the Interior, the Governor of Alaska, and other persons who are concerned over the future welfare of the Territory is impossible so long as the Secretary of Agriculture lacks clear legal authority to dispose of timber growing upon lands within the exterior boundaries of the Tongass National Forest which are the subject of claims of possessory rights asserted by native tribes, communities, or groups. The purpose of this proposed resolution is to provide the necessary legal authority for the Secretary of Agriculture to sell timber growing on any vacant, unappropriated, or unpatented lands within the exterior boundaries of the Tongass National Forest, notwithstanding any claims of possessory rights which may be asserted to certain of these lands. The resolution, if passed, would also authorize the Secretary of the Interior, notwithstanding any claims of possessory rights, to sell such vacant, unappropriated, and unpatented lands as he and the Secretary of Agriculture believe are needed for plant sites and for other incidental purposes by the persons who undertake the development of the timber

resources of the forest under contracts made with the Secretary of Agriculture.

The funds which are derived from the sale of timber and land will be maintained in a special account in the Treasury until the respective interests of the Government, on the one hand, and of those who assert claims of possessory rights, on the other hand, to the timber and land are finally determined. It is believed that this procedure will adequately protect the rights of all interested parties.

The first amendment proposed by the committee is designed merely to correct an error in a reference to a statute which pertains to the subject of native possessory rights in Alaska.

The second amendment proposed by the committee would eliminate a commitment with respect to the enactment of future legislation to govern the determination of the basic question concerning the rights to timber and land within the Tongass National Forest. Perhaps this question can be determined under existing legislation. If so, the committee feels that there should be a prompt settlement of the issue without awaiting further action by Congress.



Union Calendar No. 434

80TH CONGRESS
1ST SESSION

H. J. RES. 205

[Report No. 873]

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1947

Mr. HOPE introduced the following joint resolution; which was referred to the Committee on Agriculture

JULY 10, 1947

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

JOINT RESOLUTION

To authorize the Secretary of Agriculture to sell timber within the Tongass National Forest.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That "possessory rights" as used in this resolution shall
4 mean all rights, if any should exist, which are based upon
5 aboriginal occupancy or title, or upon section 8 of the Act
6 of May 17, 1884 (23 Stat. 24), section 14 of the Act of
7 March ~~31~~ 3, 1891 (26 Stat. 1095), or section 27 of the
8 Act of June 6, 1900 (31 Stat. 321), whether claimed by
9 native tribes, native villages, native individuals, or other

1 persons, and which have not been confirmed by patent or
2 court decision or included within any reservation.

3 SEC. 2. (a) The Secretary of Agriculture, in contracts
4 for the sale, or in the sale, of national forest timber under
5 the provisions of the Act of June 4, 1897 (30 Stat. 11, 35),
6 as amended, is authorized to include timber growing on any
7 vacant, unappropriated, and unpatented lands within the
8 exterior boundaries of the Tongass National Forest in Alaska,
9 notwithstanding any claim of possessory rights. All such
10 contracts and sales heretofore made are hereby validated.

11 (b) The Secretary of the Interior is authorized to
12 appraise and sell such vacant, unappropriated, and unpat-
13 ented lands, notwithstanding any claim of possessory rights,
14 within the exterior boundaries of the Tongass National
15 Forest as, in the opinion of the Secretary of the Interior and
16 the Secretary of Agriculture, are reasonably necessary in
17 connection with or for the processing of timber from lands
18 within such national forest, and upon such terms and
19 conditions as they may impose.

20 (c) The purchaser shall have and exercise his rights
21 under any patent issued or contract to sell or sale made
22 under this section free and clear of all claims based upon
23 possessory rights.

24 SEC. 3. (a) All receipts from the sale of timber or
25 from the sale of lands under section 2 of this resolution shall

1 be maintained in a special account in the Treasury until
2 the rights to the land and timber are finally determined by
3 ~~or under future legislation.~~

4 (b) Nothing in this resolution shall be construed as
5 recognizing or denying the validity of any claims of posses-
6 sory rights to lands or timber within the exterior boundaries
7 of the Tongass National Forest.

80TH CONGRESS
1ST Session

H. J. RES. 205

[Report No. 873]

JOINT RESOLUTION

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By Mr. HOPE

MAY 21, 1947

Referred to the Committee on Agriculture

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REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ALLEN of Illinois: Committee on Rules. House Resolution 211. Resolution authorizing and directing the Committee on Public Works to conduct surveys of certain works of improvement; without amendment (Rept. No. 852). Referred to the House Calendar.

Mr. ALLEN of Illinois: Committee on Rules. House Resolution 280. Resolution providing for the consideration of H. R. 1113, a bill to provide for removal of restrictions on property of Indians who serve in the armed forces; with amendment (Rept. No. 853). Referred to the House Calendar.

Mr. WELCH: Committee on Public Lands. H. R. 3971. A bill to amend section 2455 of the Revised Statutes, as amended, to increase the size of isolated or disconnected tracts or parcels of the public domain which may be sold, and for other purposes; without amendment (Rept. No. 855). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 3703. A bill to authorize transfer of surplus real property to the jurisdiction of the Department of the Interior for consolidation of Federal holdings within areas administered by the National Park Service; with an amendment (Rept. No. 856). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 3684. A bill to provide for the addition of certain revested Oregon & California Railroad grant lands to the Silver Creek recreational demonstration project, in the State of Oregon, and for other purposes; without amendment (Rept. No. 857). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 3503. A bill to permit the issuance of unrestricted deeds for town-site lands held by Alaska natives, and for other purposes; without amendment (Rept. No. 858). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 3416. A bill to provide for the establishment of the Pensacola National Monument; with amendments (Rept. No. 859). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 3218. A bill to authorize an emergency fund for the Bureau of Reclamation to assure the continuous operation of its irrigation and power systems; without amendment (Rept. No. 860). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 2645. A bill to provide that appointments of United States commissioners for the Isie Royale, Hawaii, Mammoth Cave, and Olympic National Parks shall be made by the United States district courts without the recommendation and approval of the Secretary of the Interior; without amendment (Rept. No. 861). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 2453. A bill to provide for the establishment and operation of a research laboratory in the North Dakota lignite-consuming region for investigation of the mining, preparation, and utilization of lignite, for the development of new uses and markets, for improvement of health and safety in mining; and for a comprehensive study of the region to aid in the solution of its economic problems and to make its natural and human resources of maximum usefulness in the re-

conversion period and time of peace; with an amendment (Rept. No. 862). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 2096. A bill to amend section 11 of the act approved June 5, 1942 (56 Stat. 317), relating to Mammoth Cave National Park, in the State of Kentucky, and for other purposes; with an amendment (Rept. No. 863). Referred to the Committee of the Whole House on the State of the Union.

Mr. WOLVERTON: Committee on Interstate and Foreign Commerce. H. R. 4102. A bill to promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes; with an amendment (Rept. No. 864). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 1710. A bill to authorize the survey of a proposed Mississippi River Parkway for the purpose of determining the feasibility of such a national parkway, and for other purposes; without amendment (Rept. No. 865). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. H. R. 1049. A bill to repeal certain acts of Congress, known as Indian liquor laws, in certain parts of Minnesota; with an amendment (Rept. No. 866). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. S. 1185. An act to provide for the disposal of materials on the public lands of the United States; with amendments (Rept. No. 867). Referred to the Committee of the Whole House on the State of the Union.

Mr. WELCH: Committee on Public Lands. S. 753. An act to authorize the Secretary of the Interior to defer the collection of certain irrigation construction charges against lands under the Flathead Indian irrigation project; without amendment (Rept. No. 868). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOPE: Committee on Agriculture. House Joint Resolution 205. Joint resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest; with amendments (Rept. No. 873). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CRAVENS: Committee on the Judiciary. S. 179. An act for the relief of Maj. Ralph M. Rowley and First Lt. Irving E. Sheffield; without amendment (Rept. No. 818). Referred to the Committee of the Whole House.

Mr. JENNINGS: Committee on the Judiciary. S. 880. An act for the relief of Rev. John C. Young; without amendment (Rept. No. 819). Referred to the Committee of the Whole House.

Mr. REEVES: Committee on the Judiciary. H. R. 388. A bill for the relief of Bert Harrington, Jr.; without amendment (Rept. No. 820). Referred to the Committee of the Whole House.

Mr. BYRNE of New York: Committee on the Judiciary. H. R. 640. A bill for the relief of Harley Shores; with amendments (Rept. No. 821). Referred to the Committee of the Whole House.

Mr. CRAVENS: Committee on the Judiciary. H. R. 769. A bill for the relief of the estate of Ruth Horton Hunter; without

amendment (Rept. No. 822). Referred to the Committee of the Whole House.

Mr. CRAVENS: Committee on the Judiciary. H. R. 890. A bill for the relief of Jessie Thompkins; with an amendment (Rept. No. 823). Referred to the Committee of the Whole House.

Mr. JENNINGS: Committee on the Judiciary. H. R. 1085. A bill for the relief of Mrs. Marie Salamone; with an amendment (Rept. No. 824). Referred to the Committee of the Whole House.

Mr. SPRINGER: Committee on the Judiciary. H. R. 1175. A bill for the relief of the estate of Daphne Ward Pope, deceased; with amendments (Rept. No. 825). Referred to the Committee of the Whole House.

Mr. JENNINGS: Committee on the Judiciary. H. R. 1226. A bill for the relief of Mrs. Maud M. Wright and Mrs. Maxine Mills; without amendment (Rept. No. 826). Referred to the Committee of the Whole House.

Mr. BYRNE of New York: Committee on the Judiciary. H. R. 1316. A bill for the relief of Archer C. Gunter; with an amendment (Rept. No. 827). Referred to the Committee of the Whole House.

Mr. SPRINGER: Committee on the Judiciary. H. R. 1319. A bill for the relief of Calvin J. Frederick; with an amendment (Rept. No. 828). Referred to the Committee of the Whole House.

Mr. CRAVENS: Committee on the Judiciary. H. R. 1648. A bill for the relief of Willie P. Goodwin, J. M. Thorud, and W. H. Stokley; with an amendment (Rept. No. 829). Referred to the Committee of the Whole House.

Mr. CRAVENS: Committee on the Judiciary. H. R. 1654. A bill for the relief of the estate of Mrs. Elizabeth Campbell; without amendment (Rept. No. 830). Referred to the Committee of the Whole House.

Mr. CRAVENS: Committee on the Judiciary. H. R. 1730. A bill for the relief of Mrs. Beulah Hart; with an amendment (Rept. No. 831). Referred to the Committee of the Whole House.

Mr. BYRNE of New York: Committee on the Judiciary. H. R. 1744. A bill for the relief of the estate of Curtis Wilson, deceased; without amendment (Rept. No. 832). Referred to the Committee of the Whole House.

Mr. REEVES: Committee on the Judiciary. H. R. 1864. A bill for the relief of Mrs. Raiford D. Smith; with an amendment (Rept. No. 833). Referred to the Committee of the Whole House.

Mr. SPRINGER: Committee on the Judiciary. H. R. 1953. A bill for the relief of Mrs. Elizabeth F. McCombie; without amendment (Rept. No. 834). Referred to the Committee of the Whole House.

Mr. BYRNE of New York: Committee on the Judiciary. H. R. 1953. A bill for the relief of John F. Reeves; with an amendment (Rept. No. 835). Referred to the Committee of the Whole House.

Mr. CRAVENS: Committee on the Judiciary. H. R. 2012. A bill for the relief of Mrs. Pearl Cole; with an amendment (Rept. No. 836). Referred to the Committee of the Whole House.

Mr. CRAVENS: Committee on the Judiciary. H. R. 2129. A bill for the relief of R. C. Owens; with an amendment (Rept. No. 837). Referred to the Committee of the Whole House.

Mr. JENNINGS: Committee on the Judiciary. H. R. 2192. A bill for the relief of the Massman Construction Co.; with an amendment (Rept. No. 838). Referred to the Committee of the Whole House.

Mr. REEVES: Committee on the Judiciary. H. R. 2213. A bill for the relief of A. J. Sproufske; without amendment (Rept. No. 839). Referred to the Committee of the Whole House.

Mr. SPRINGER: Committee on the Judiciary. H. R. 2348. A bill for the relief of Charles J. Smith; with an amendment (Rept. No. 840). Referred to the Committee of the Whole House.

Mr. FEIGHAN: Committee on the Judiciary. H. R. 2432. A bill for the relief of Harry V. Ball; with an amendment (Rept. No. 841). Referred to the Committee of the Whole House.

Mr. CASE of New Jersey: Committee on the Judiciary. H. R. 2506. A bill for the relief of Louis T. Klauder; with an amendment (Rept. No. 842). Referred to the Committee of the Whole House.

Mr. REEVES: Committee on the Judiciary. H. R. 2534. A bill for the relief of James H. Underwood; without amendment (Rept. No. 843). Referred to the Committee of the Whole House.

Mr. REEVES: Committee on the Judiciary. H. R. 2633. A bill for the relief of Claude T. Thomas, legal guardian of Elizabeth Ann Mervine, a minor, and the estates of Mary L. Poole, deceased, and Hazel S. Thomas, deceased; with an amendment (Rept. No. 844). Referred to the Committee of the Whole House.

Mr. REEVES: Committee on the Judiciary. H. R. 2783. A bill for the relief of Joseph MacGuffie and Eugene Rohrer; without amendment (Rept. No. 845). Referred to the Committee of the Whole House.

Mr. BYRNE of New York: Committee on the Judiciary. H. R. 3068. A bill for the relief of Alfred Thomas Freitas; without amendment (Rept. No. 846). Referred to the Committee of the Whole House.

Mr. JENNINGS: Committee on the Judiciary. H. R. 3111. A bill for the relief of Louis H. Deaver; without amendment (Rept. No. 847). Referred to the Committee of the Whole House.

Mr. REEVES: Committee on the Judiciary. H. R. 3383. A bill for the payment of claims of the Fidelity Trust Co., of Baltimore, Md., and others, covered by findings of fact made by the United States Court of Claims, dated June 5, 1944, and contained in Senate Document No. 229, Seventy-eighth Congress, second session; with an amendment (Rept. No. 848). Referred to the Committee of the Whole House.

Mr. CRAVENS: Committee on the Judiciary. H. R. 3495. A bill for the relief of Andrew C. Extrom and Harry C. Pearson; without amendment (Rept. No. 849). Referred to the Committee of the Whole House.

Mr. CASE of New Jersey: Committee on the Judiciary. H. R. 3499. A bill for the relief of Petrol Corp.; with an amendment (Rept. No. 850). Referred to the Committee of the Whole House.

Mr. CRAVENS: Committee on the Judiciary. H. R. 3845. A bill for the relief of George J. Hiner; with an amendment (Rept. No. 851). Referred to the Committee of the Whole House.

Mr. WELCH: Committee on Public Lands. H. R. 3064. A bill authorizing and directing the Secretary of the Interior to issue a patent in fee to Thomas Lucas; with an amendment (Rept. No. 869). Referred to the Committee of the Whole House.

Mr. WELCH: Committee on Public Lands. S. 484. An act to authorize and direct the Secretary of the Interior to issue to Joseph J. Pickett a patent in fee to certain land; without amendment (Rept. No. 870). Re-

ferred to the Committee of the Whole House.

Mr. WELCH: Committee on Public Lands. S. 403. An act authorizing the issuance of a patent in fee to Gideon Peon; without amendment (Rept. No. 871). Referred to the Committee of the Whole House.

Mr. WELCH: Committee on Public Lands. H. R. 185. A bill to authorize the sale of certain public lands in Alaska to the Catholic bishop of Alaska, in trust for the Roman Catholic Church; with an amendment (Rept. No. 872). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of New York:

H. R. 4136. A bill to amend the act of July 23, 1946 (60 Stat. 596), entitled "Strategic and Critical Materials Stock Piling Act"; to the Committee on Armed Services.

By Mr. EVINS:

H. R. 4137. A bill to amend the Reconstruction Finance Corporation Act so as to authorize the Reconstruction Finance Corporation to purchase home loans guaranteed or insured under the Servicemen's Readjustment Act of 1944; to the Committee on Banking and Currency.

By Mr. FERNOS-ISERN:

H. R. 4138. A bill to provide for the establishment of a national cemetery in Puerto Rico; to the Committee on Public Lands.

By Mr. KILDAY:

H. R. 4139. A bill to amend subsection (d) of section 500 of the Servicemen's Readjustment Act of 1944, as amended; to the Committee on Veterans' Affairs.

By Mr. MATHEWS:

H. R. 4140. A bill granting the consent of Congress to a compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Joint Toll Bridge Commission, and for other purposes; to the Committee on Public Works.

By Mr. PHILLIPS of Tennessee:

H. R. 4141. A bill to amend subsection 602 (d) (5) of the National Service Life Insurance Act of 1940, as amended, to extend for 2 years the time within which eligible persons may apply for gratuitous insurance benefits; to the Committee on Veterans' Affairs.

By Mr. ROGERS of Florida:

H. R. 4142. A bill to provide for terms of court to be held at West Palm Beach and at Fort Myers in the southern district of Florida; to the Committee on the Judiciary.

By Mr. TOWE:

H. R. 4143. A bill to provide for the effective operation and expansion of the Reserve Officers' Training Corps, and for other purposes; to the Committee on Armed Services.

By Mr. FLETCHER:

H. R. 4144. A bill to provide for slum clearance, and for other purposes; to the Committee on Banking and Currency.

By Mr. O'HARA (by request):

H. R. 4145. A bill to amend the District of Columbia rent-control law so as to provide that schools and universities may recover possession of housing accommodations in certain cases; to the Committee on the District of Columbia.

By Mr. KING:

H. R. 4146. A bill to create an independent Air Safety Board; to the Committee on Interstate and Foreign Commerce.

By Mr. ABERNETHY:

H. R. 4147. A bill to extend the benefits of title III of the Servicemen's Readjustment Act of 1944 to the veterans of World War I; to the Committee on Veterans' Affairs.

H. R. 4148. A bill to increase the pension payable to war veterans suffering from permanent total non-service-connected disabilities to \$75 per month, and for other purposes; to the Committee on Veterans' Affairs.

H. R. 4149. A bill to provide adjusted compensation for veterans of World War II; to the Committee on Veterans' Affairs.

By Mr. COOLEY:

H. R. 4150. A bill to provide for the coordination of agricultural soil and water conservation programs, and for other purposes; to the Committee on Agriculture.

By Mr. HILL:

H. R. 4151. A bill to provide for the coordination of agricultural soil and water conservation programs, and for other purposes; to the Committee on Agriculture.

By Mr. MILLER of California:

H. R. 4152. A bill to authorize the American River Basin development, California, for irrigation and reclamation and other purposes; to the Committee on Public Lands.

By Mr. LANHAM:

H. J. Res. 234. Joint resolution designating the first Sunday in June of each year as "Shut-Ins' Day"; to the Committee on the Judiciary.

By Mr. STIGLER:

H. J. Res. 235. Joint resolution to provide for the issuance of a special postage stamp in honor of Will Rogers; to the Committee on Post Office and Civil Service.

By Mr. GEARHART:

H. J. Res. 236. Joint resolution to authorize commencement of an action by the United States to determine interstate water rights in the Colorado River; to the Committee on the Judiciary.

By Mr. PATMAN:

H. Con. Res. 69. Concurrent resolution providing for the printing of additional copies of the pamphlet entitled "Fascism in Action"; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FARRINGTON:

H. R. 4153. A bill for the relief of Mrs. Mataniu F. Fonoiomana, to the Committee on the Judiciary.

By Mr. JONES of Washington:

H. R. 4154. A bill for the relief of Gudrun Emma Ericsson; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

739. Mr. MARTIN of Massachusetts presented a petition of Lieutenant Albert E. Purrington Post, No. 21, World War Veterans of the United States Merchant Marine, urging enactment of H. R. 476, which was referred to the Committee on Merchant Marine and Fisheries.

DIGEST OF CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports
(For Department staff only)

Issued July 16, 1947
For actions of July 15, 1947
80th-1st, No. 135

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HIGHLIGHTS: House sent agricultural appropriation bill to conference. House passed bill to permit agencies to meet payrolls for first half of July. House passed bill to permit sale of timber in Tongass Forest. House passed employees' loyalty bill. House committees reported wool bill without import-control provision, bill to limit entry of nursery stock, bill to amend various peanut-quota provisions, bill to abolish Jackson Hole Monument and return lands to Forest Service, and bill to change basis for 20% marketing-research requirement. Both Houses agreed to conference report on legislative appropriation bill. Rep. Hope introduced bill to authorize Agriculture Committee to investigate agricultural matters. Senate passed independent offices appropriation bill. Sen. Williams said CSC was responsible for "technical corner" on wheat market and discussed Government marketing operations.

HOUSE

1. AGRICULTURAL APPROPRIATION BILL. Reps. Dirksen, Plumley, Andersen, Horan, Phillips of Calif., Cannon, Whitten, and Sheppard were appointed conferees on this bill, H. R. 3601 (p. 9103). Senate conferees were appointed July 14.
2. TEMPORARY APPROPRIATIONS. Passed without amendment H. J. Res. 240, which reads as follows: "Resolved, etc., That there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to meet pay rolls (obligations for which were incurred in accordance with section 102 of the Second Urgent Deficiency Appropriation Act, 1947, Public Law 161) for pay periods ending prior to July 16, 1947: Provided, That expenditures hereunder shall be charged to the appropriate appropriations for the fiscal year 1948 when made" (p. 9117).
3. FORESTS. Passed as reported H. J. Res. 205, to authorize sale of timber in the Tongass National Forest, Alaska, in such a way as to facilitate pulp production in view of the aboriginal claims of Indians (p. 9094). A similar measure, S. J. Res. 118, has been reported in the Senate.
4. EMPLOYEES' LOYALTY. Passed, 319-61, with amendments H. R. 3813, which provides for a preliminary loyalty check on all Federal employees and job applicants by the Civil Service Commission and an investigation by FBI of adverse findings, prior to action by a 5-member Federal Loyalty Review Board, whose findings of fact are to be final (pp. 9118-56). A motion to recommit the bill to provide for appeal to the Court of Appeals was rejected 133-248.

- 4a. TVA COOPERATIVES. Received from this Department a proposed bill to provide for liquidation of Tenn. Valley Coop. Inc., by USDA; to Agriculture Committee (p. 9163).
5. WOOL-PRICE SUPPORTS. The Agriculture Committee reported without amendment S. 1498, the wool bill which is the same as the vetoed bill except for elimination of the import-control provisions (H. Rept. 920)(p. 9163).
6. PLANT QUARANTINE. The Agriculture Committee reported with amendments S. 338, to authorize USDA to limit importation of nursery stock to that needed for propagation and require that such stock be grown in post-entry quarantine to determine whether it is infested or infected (H. Rept. 921)(p. 9163).
7. PEANUT QUOTAS. The Agriculture Committee reported without amendment H. R. 4124, to amend peanut-quota provisions by providing that the farm marketing quota shall be the actual production of the farm acreage allotment and that no peanuts shall be marketed under the quota for any farm other than peanuts actually produced on the farm; by changing the excess-marketing penalty to 50% of the basic loan rate; and by making peanuts subject to quotas even though marketed before the beginning of the marketing year, with penalties for false statements regarding this (H. Rept. 922)(pp. 9163-4).
8. FORESTS. The Public Lands Committee reported with amendments H. R. 1330, to abolish the Jackson Hole National Monument and return certain forest lands to the Forest Service (H. Rept. 914)(p. 9163).
9. RESEARCH. The Agriculture Committee reported without amendment H. R. 4110, which amends the Research and Marketing Act of 1946 by providing that not less than 20% of the funds "appropriated", rather than those "authorized to be appropriated", for general research shall be used by the State agricultural experiment stations for conducting marketing research approved by the Department (H. Rept. 930)(p. 9164).
10. PERSONNEL. The Interstate and Foreign Commerce Committee reported without amendment S. Con. Res. 14, favoring fair representation of small businessmen on policy-making bodies created by Executive appointments (H. Rept. 929)(p. 9164).
11. RECLAMATION. The Public Lands Committee reported without amendment H. Res. 244, for investigations looking to provision of additional water for southern Calif. and the Colo. River Basin (H. Rept. 916)(p. 9163).
This Committee reported without amendment H. R. 3834, to authorize a project for rehabilitation of certain works of the Fort Sumner irrigation district in N. Mex. (H. Rept. 924)(p. 9164).
12. CIVIL-SERVICE RETIREMENT. The Rules Committee reported a resolution providing for consideration of H. R. 4127, the omnibus retirement bill (p. 9163).
13. LEGISLATIVE APPROPRIATION BILL. Both Houses agreed to the conference report on this bill, H. R. 3993 (pp. 9069-70, 9109-10). This bill will now be sent to the President.
14. NAVAL APPROPRIATION BILL. Both Houses agreed to the conference report on this bill, H. R. 3493 (pp. 9070-1, 9104-9). This bill will now be sent to the President.
15. RESEARCH. H.R. 4102, as reported (see Digest 131), creates a National Science Foundation of 24 members to be appointed by the President and confirmed by the Senate, to formulate, develop, and establish a national policy for promotion of fundamental research and education in the sciences and to correlate its scientific programs with those undertaken by individuals and by public and private research groups; provides for an executive committee of the Foundation and a Director to be appointed by the Foundation; establishes an interdepartmental

I have confidence in the people. They will make correct decisions if the Department of State will furnish them with the information freely, frankly, and without fear or hesitancy.

EXTENSION OF REMARKS

Mr. ELLIS asked and was given permission to extend his remarks in the RECORD in two instances—in each to include an editorial.

Mr. STIGLER asked and was given permission to extend his remarks in the RECORD and include an article on Will Rogers.

Mr. JARMAN asked and was given permission to extend his remarks in the RECORD in two instances and include newspaper excerpts.

PERMISSION TO ADDRESS THE HOUSE

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

[Mr. RANKIN addressed the House. His remarks will appear hereafter in the Appendix.]

PERMISSION TO ADDRESS THE HOUSE

Mr. RAMEY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE MARSHALL PLAN

Mr. RAMEY. Mr. Speaker, I take this opportunity to address the House for 1 minute in order to ask the gentleman from New Hampshire [Mr. MERROW], a question. He has stated that he is definitely for the Marshall plan. I take it for granted that he means he is for the purported Marshall plan, is that right?

Mr. MERROW. I will answer the gentleman by saying the Marshall plan, as I understand it, contemplates a survey of the economic resources and the economic needs of Europe. After that survey is made, then a plan setting forth what Europe needs will be drawn up and presented to the Congress of the United States. Before the plan can become effective the Congress must act. I think the Congress should meet in special session and act this fall.

Mr. RAMEY. But as yet it is not officially before us.

PERMISSION TO ADDRESS THE HOUSE

Mr. WELCH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CALIFORNIA WATER PROBLEMS

Mr. WELCH. Mr. Speaker, I have this day filed House Resolution No. 244, with report, which was introduced by

me. It is not my intention to ask consideration of the resolution until the second session of the Eightieth Congress at which time I am confident it will be fully understood and appreciated by all except those who are seemingly incapable of understanding and who deliberately misrepresent its real intent and purpose with reference to California's water problem.

Mr. Speaker, during the early months of this session of Congress, Gov. Earl Warren, of California, came to Washington on official business. In a conference with the California congressional delegation the Governor referred to an approaching water shortage in the southern part of the State which, he said, would be reached within 20 years due to the enormous increase in population, unless steps were taken to increase the present water supply. As a resident of San Francisco the Governor's alarming statement immediately brought to my mind the destruction of that great seaport city in 1906 due to an inadequate water supply. I was harbor master of the port at that time and witnessed five square miles of the very heart of the city being laid waste by fire.

Later, as a member of the legislative body of the city and county of San Francisco I took an active part in developing an adequate water supply which was made possible by what is known as the Raker Act, passed by this House, and which some of the older Members will recall having helped to enact into law after a long, uphill fight. The power interests fought that bill because it made possible the generation of hydroelectric power by the city of San Francisco. This greedy group totally disregarded the necessary expenditure of \$150,000,000 by the taxpayers of that stricken city in its need to provide against another such catastrophe.

Mr. Speaker, with this background of experience, and after hearing Governor Warren, I felt it was my duty, as chairman of the House Committee on Public Lands, and also chairman of the California delegation in Congress, to again assist Los Angeles and southern California from the threat of another water famine. Los Angeles and southern California have for years past, and at the present time are experiencing an increase in population greater than any other section of the United States. Over 20 years ago Los Angeles had nearly reached the limit of her then water supply. In desperation water claims were filed nearly 500 miles north of the city and in close proximity to the San Francisco watershed in the Hetch-Hetchy Range of the Sierra Nevada Mountains. San Francisco did not view this act on the part of Los Angeles with alarm—not at all. We extended the hand of friendship to a great sister city of California which, even at that time, had passed San Francisco in population.

Before coming to Washington 21 years ago I attended a conference of high city officials of San Francisco. I volunteered at that meeting to do all within my power to assist Los Angeles in a long-to-be-remembered uphill fight for the use of Colorado River water. This fight was

led in the Senate by the late Senator Hiram W. Johnson, of California, and in this House by Congressman Phil D. Swing, both of whom were among the ablest men to ever come out of the West to Congress. Mr. Speaker, I became so interested in the good fight that I left my home in San Francisco and went to Los Angeles where I joined Mr. E. F. Scattergood, advisory engineer of the Department of Water and Power of the City of Los Angeles, who was a valiant leader in that just fight. I accompanied Mr. Scattergood to the Colorado River and visited the present dam site, known then as Black Canyon—now the Hoover Dam. This was before ground breaking and indeed it was black. We went through the ugly canyon in a flat-bottomed motorboat, crossed the Mexican border twice on that trip and followed the course of the Colorado River for several miles into Mexico.

Among the first things I did when I came to Washington was to confer with President Coolidge. I told him my story as impressively as I knew how in order to insure his support for the Colorado River project. I also conferred with the then Secretary of Commerce, Hon. Herbert Hoover. Mr. Hoover favored the project. I left no stone unturned. I did all I could in behalf of the Johnson-Swing bill and its enactment into law.

Mr. Speaker, I recently introduced House Resolution 244 which provides for a long-range study by the Department of the Interior of Pacific coast water potentialities. This resolution originated with me in an earnest and sincere desire to again help southern California solve her serious water problems. If it can be done through a more equitable division of the waters of the Colorado River, well and good. I am for such a division. If, however, after a fair and just adjudication of the uses of the Colorado River water, and if southern California is granted all the water it can reasonably expect, and should it then develop that still more water is needed to meet the future demands, a long-range study of all available surplus waters now running wild into the Pacific Ocean should be made, and that before it is too late.

Mr. Speaker, I desire in passing, to state that my interest in the problems of the great metropolitan city of Los Angeles extends back many years. Forty years ago I was chairman of the committee on commerce and navigation in the California State Senate. The city of Los Angeles had been trying for a long time to secure control of her harbor, which was owned at that time by the State of California. What is now one of the principal seaports of the country was then a rickety old port of call for small, coastwise vessels. A splendid delegation of representative citizens, headed by Judge Leslie Hewitt, came to Sacramento, the State capital, and appeared before my committee with a bill providing for municipal ownership or control of the harbor. I became impressed with their sincerity and just claim and supported their fight. The bill was passed and became law. When I visit Los Angeles and its splendid harbor, where I have often gone as a guest of the Los Angeles Cham-

ber of Commerce and city harbor commission, I naturally refer with pride to my past efforts to assist that very interesting city.

PERMISSION TO ADDRESS THE HOUSE

Mr. JAVITS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

HOUSING SHORTAGE

Mr. JAVITS. Mr. Speaker, as we approach the end of the session and prepare to go home, Members of the House from the big cities and many from rural areas will want to consider what we have done about America's No. 1 domestic problem and Congress' No. 1 domestic "must"—housing. Members should not be taken in by the figures showing material gains in money expended for private residential construction in the first 6 months of 1947, as compared with 1946. Costs have gone up so high that actual permanent housing units started are very little greater than they were in 1946, and are nothing like what they must be if we are to crack the national housing shortage as we cracked the war emergency. From most recent preliminary figures which I have just received, Government agencies report the new permanent housing units started in the first 6 months of 1947, as 359,000, only 19,000 more than for the first 6 months of 1946. These figures may be subject to some revision but the trend is clear. If we continue at the present rate we shall continue to have an acute national housing shortage for from 5 to 10 years. It is clear now that no action can be expected at this session on the Taft-Ellender-Wagner comprehensive housing bill. The only alternative is to lay the whole issue bare by a broad scale investigation of every possible reason for the national housing shortage as called for by H. Res 247. This investigation must probe equally into the practices and costs of labor, material suppliers, mortgagers and land sellers, and into the role of Government, municipal, State, and Federal, in housing. It is gratifying to see that the Republican Governor of the great State of Vermont yesterday joined in the widespread demand for such an investigation.

EXTENSION OF REMARKS

Mr. MANSFIELD asked and was given permission to extend his remarks in the RECORD and include an article.

Mr. LANE asked and was given permission to extend his remarks in the RECORD and include an editorial appearing in the Boston Traveler.

SELL TIMBER WITHIN THE TONGASS NATIONAL FOREST

Mr. HOPE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H. J. Res. 205) to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There being no objection, the Clerk read the House joint resolution, as follows:

Resolved, etc., That "possessory rights" as used in this resolution shall mean all rights, if any should exist, which are based upon aboriginal occupancy or title, or upon section 8 of the act of May 17, 1884 (23 Stat. 24), section 14 of the act of March 31, 1891 (26 Stat. 1095), or section 27 of the act of June 6, 1900 (31 Stat. 321), whether claimed by native tribes, native villages, native individuals, or other persons, and which have not been confirmed by patent or court decision or included within any reservation.

SEC. 2. (a) The Secretary of Agriculture, in contracts for the sale, or in the sale, of national-forest timber under the provisions of the act of June 4, 1907 (30 Stat. 11, 35), as amended, is authorized to include timber growing on any vacant, unappropriated, and unpatented lands within the exterior boundaries of the Tongass National Forest in Alaska, notwithstanding any claim of possessory rights. All such contracts and sales heretofore made are hereby validated.

(b) The Secretary of the Interior is authorized to appraise and sell such vacant, unappropriated, and unpatented lands, notwithstanding any claim of possessory rights, within the exterior boundaries of the Tongass National Forest as, in the opinion of the Secretary of the Interior and the Secretary of Agriculture, are reasonably necessary in connection with or for the processing of timber from lands within such national forest, and upon such terms and conditions as they may impose.

(c) The purchaser shall have and exercise his rights under any patent issued or contract to sell or sale made under this section free and clear of all claims based upon possessory rights.

SEC. 3. (a) All receipts from the sale of timber or from the sale of lands under section 2 of this resolution shall be maintained in a special account in the Treasury until the rights to the land and timber are finally determined by or under future legislation.

(b) Nothing in this resolution shall be construed as recognizing or denying the validity of any claims of possessory rights to lands or timber within the exterior boundaries of the Tongass National Forest.

With the following committee amendments:

Page 1, line 7, strike out "31" and insert "3."

Page 3, line 2, strike out "by or under future legislation."

The committee amendments were agreed to.

The House joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

CLARENCE J. WILSON AND MARGARET J. WILSON

The Clerk called the bill (H. R. 718) for the relief of Clarence J. Wilson and Margaret J. Wilson.

Mr. POTTS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CHARLES E. CROOK ET AL.

The Clerk called the bill (H. R. 2268) for the relief of Charles E. Crook.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. DOLLIVER and Mr. POTTS objected, and, under the rule, the bill was recommitted to the Committee on Claims.

MRS. AUDREY ELLEN GOOCH

The Clerk called the bill (H. R. 1078) for the relief of Mrs. Audrey Ellen Gooch.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the immigration laws the alien Mrs. Audrey Ellen Gooch, of Brisbane, Australia, who married Storekeeper Second Class Leslie R. Gooch, United States Naval Reserve, on September 8, 1944, in Lindfield, New South Wales, Australia, and who is the mother of his minor son, shall not be subject to the provisions of sections 3 and 19 of the Act of February 5, 1917, as amended (U. S. C., 1940 ed., title 8, secs. 136 and 155), insofar as such provisions may be applicable to her conviction in Australia for the theft of personal property.

With the following committee amendment:

Strike out all after the enacting clause and insert:

"That, notwithstanding the provisions of the eleventh category of section 3 of the Immigration Act of 1917 (8 U. S. C. 136 (e)), Mrs. Audrey Ellen Gooch of Brisbane, Australia, the wife of Mr. Leslie R. Gooch, a citizen of the United States who served honorably in the armed forces of the United States during World War II, may be admitted to the United States for permanent residence under the act approved December 28, 1945 (Public Law 271, 79th Cong.), if she is found otherwise admissible under the provisions of the immigration laws."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CLAIMS OF CERTAIN FOREIGN SERVICE OFFICERS AND EMPLOYEES

The Clerk called the bill (H. R. 3726) for the relief of certain officers and employees of the Foreign Service of the United States who, while in the course of their respective duties, suffered losses of personal property by reason of war conditions.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That there is authorized to be appropriated, and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following sums of money, which sums represent the value of reasonable and necessary personal property lost by the claimants as a result of war conditions:

Ralph J. Blake, \$958; William T. Turner, \$100; Fulton Freeman, \$40; John Frederick Zahoruiko, \$125.35; John Duncan Sumner, \$33.26; Liang Chen Yi, \$18.57; Ming Chen Tai, \$6.97; Harold C. Roser, Jr., \$42.83; William George McCoy, \$79.50; Philip D. Sprouse, \$1,517; Franklin J. C. Liu, \$168.74; John B. Burleson, \$764; Sham-Tai Chau, \$1,551; Wing-Tai Chau, \$1,926; Barbara Schurman

18. WATER POLLUTION. Passed with amendments S. 418, to provide for water-pollution-control activities in the U.S. Public Health Service (pp. 9207-9).
19. PERSONNEL; VETERANS. Passed over S. 999, to amend the Veterans' Preference Act with respect to preference accorded in Federal employment to disabled veterans (p. 9202).
20. FEDERAL AID TO EDUCATION. Passed over on objection S. 472, to authorize appropriation of funds to assist the States and Territories in financing a minimum foundation education program of public elementary and secondary schools (p. 9203).
21. NATIONAL FORESTS. Passed over on objection S.J.Res. 118, to authorize sale of timber within the Tongass National Forest (pp. 9204, 9216).
22. DAYLIGHT SAVING TIME. Passed over on objection S. 1481, to authorize the D.C. Commissioners to establish daylight saving time in D.C. (p. 9210).
23. FOREIGN AFFAIRS. Passed over on objection S.J.Res. 46, authorizing appropriations for the construction, operation, and maintenance of the western land boundary fence project and Rio Grande Border fence project (p. 9210).
24. COTTONSEED STATISTICS. Discussed and passed over on objection S. 1497, relating the collection and publication of cottonseed and cottonseed products statistics (pp. 9210-1).
25. PERSONNEL; VETERANS. Passed over on objection S. 416, to extend veterans' preference benefits to widowed mothers of certain ex-servicemen (p. 9214).

HOUSE

26. RESEARCH. Passed with amendments H.R. 4102, to create a National Science Foundation (pp. 9236-70). S. 526, the National Science Foundation bill as passed by the Senate was then passed with an amendment inserting the language of H.R. 4102 (p. 9270). An amendment by Rep. Robertson, N.Dak., to provide a formula for apportionment of the funds among the States, was rejected (pp. 9264-8).
27. EXECUTIVE ORGANIZATION. Rep. Brown (Ohio) and Rep. Manasco (Ala.), Herbert Hoover and James Rowe, Jr., were appointed by the Speaker to be members of the Commission on Organization of the Executive Branch (p. 9276).
28. LANDS. The Public Lands Committee reported with amendments H.R. 3538, to authorize investigation and reports on projects for reclaiming lands by drainage (H.Rept. 942) (p. 9288).
The Public Lands Committee reported with an amendment H.R. 4059, to provide for the settlement of certain Alaska lands by veterans (H.Rept. 944) (p. 9288).
29. WAR DEPARTMENT MILITARY APPROPRIATION BILL, 1948. Conferees were appointed on this bill, H.R. 3678 (p. 9224). Senate conferees were appointed July 15.
30. INDEPENDENT OFFICES APPROPRIATION BILL, 1948. Reps. Wigglesworth, Phillips, Robertson, Coudert, Hendricks, Andrews (Ala.), and Thomas (Tex.) were appointed conferees on this bill, H.R. 3839 (p. 9224). Senate conferees appointed July 15.
31. LATIN AMERICA. The Foreign Affairs Committee reported without amendment H.R. 4168, to reincorporate the Institute of Inter-American Affairs (H.Rept. 944) (p. 9289).
The Foreign Affairs Committee reported without amendment H.J.Res. 231, providing for U.S. membership in the Caribbean Commission (H.Rept. 956) (p. 9289).

32. SURPLUS PROPERTY; FLOOD CONTROL. The Expenditures in the Executive Departments Committee reported without amendment S. 1515, to make surplus property available for the alleviation of damage caused by flood or other catastrophe (H.Rept. 959) (p. 9289).
33. PURCHASING; FOREIGN AFFAIRS. The Foreign Affairs Committee reported with amendments H.R. 4010, to authorize any agency of the U.S. Government to furnish or to procure and furnish materials, supplies, and equipment to public international organizations on a reimbursable basis (H.Rept. 952) (p. 9288).
34. PERSONNEL. The Post Office and Civil Service Committee reported with amendments H.R. 739, to provide for the protection of veterans and career-service employees in connection with reduction in force in the Federal service (H.Rept. 945) (p. 9288).
35. LIVESTOCK SUBSIDIES. The Banking and Currency Committee reported with amendment H.R. 3738, to authorize retroactive subsidies to certain livestock slaughterers who became eligible under a regulation effective July 23, 1945, changing the definition of a non-processing slaughterer (H. Rept. 951) (p. 9288).
36. ROADS. Received from the Interior Department a proposed bill to extend the Federal Aid Road Act to Alaska and to transfer certain functions of the Interior Department to the Public Roads Administration (p. 9288).
37. PUBLIC WORKS. Agreed to H.Res. 211, authorizing and directing the Public Works Committee to conduct surveys of certain works of improvement (p. 9273).
38. FOREIGN RELIEF. Rep. Ellis, W.Va., urged a careful investigation of our foreign relief program before we consider any new proposal (pp. 9224-5).
39. HEALTH; FOREIGN AFFAIRS. The Foreign Affairs Committee ordered reported (but did not actually report) H.J.Res. 161, to authorize U.S. participation in a World Health Organization (p. D548).
40. WILDLIFE. The Merchant Marine and Fisheries Committee ordered reported (but did not actually report) S. 616, authorizing a game refuge in Francis Marion National Forest; and H.R. 4018, authorizing the transfer of Government real property no longer needed by the agency controlling it and chiefly valuable for wildlife purposes to State wildlife agencies or the Interior Department for use in wildlife conservation (p. D549).

BILLS INTRODUCED

41. MARKETING. S. 1640, by Sen. Russell, Ga., providing for grants to aid in establishing farmers' markets. To Agriculture and Forestry Committee. (p. 9172.)
42. COLUMBIA VALLEY AUTHORITY. S. 1647, by Sen. Taylor, Idaho (for himself and others), to establish a Columbia Valley Authority to provide for integrated water control and resource development on the Columbia River, etc. To Public Works Committee. Remarks of author. (pp. 9172-4.)
43. PERSONNEL. S. 1644, by Sen. O'Connor, Md., to amend the Veterans' Preference Act so as to permit rescission of prior-agency action in complying with recommendations of the CSC pursuant to appeals taken by preference employees. To Civil Service Committee. (p. 9172.)
H.R. 4236, by Rep. Morrison, La., to amend the Civil Service Act to remove certain discrimination with respect to the appointment of persons having any physical handicap to positions in the classified civil service. To Post Office

The PRESIDENT pro tempore. Objection is again made to the consideration of the bill, and it will be passed over.

CHEROKEE INDIAN RESERVATION, N. C.

The bill (S. 794) to authorize the sale of a small tract of land on the Cherokee Indian Reservation, N. C., was announced as next in order.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. The bill will be passed over.

Mr. HOEY. Mr. President, in reference to calendar order No. 437, Senate bill 794, I do not know who made objection to it, but I wish the objection might be withdrawn for a moment, so I can make an explanation of it.

The bill merely gives the right to a tribe of Indians in North Carolina to lease to the church a piece of land on which to build a church and a parsonage. It has been recommended by the Public Lands Committee. An amendment has been offered, which is agreeable to the Indian Office and the Interior Department, and to the tribe in North Carolina. I cannot see how there could possibly be any objection to it. I ask for its consideration.

The PRESIDENT pro tempore. The Chair will ask again whether there is objection.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Public Lands with an amendment, to strike out all after the enacting clause and to insert:

That with the consent of the authorized tribal authorities of the Eastern Band of Cherokee Indians, the Secretary of the Interior is authorized to issue a license to the Methodist Church to use from 2 to 4 acres of tribal land on the Cherokee Indian Reservation, N. C., for so long a time as such land may be used for church purposes, including the construction of a church building and a parsonage. The license shall be issued by the Secretary of the Interior or his authorized representative upon such terms and conditions as may be mutually agreeable to the parties, and may be revoked only if and when the land ceases to be used for the purposes for which said license is issued.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

BILLS PASSED OVER

The bill (S. 472) to authorize the appropriation of funds to assist the States and Territories in financing a minimum foundation education program of public elementary and secondary schools was announced as next in order.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. Objection is heard, and the bill will be passed over.

The bill (S. 1324) to amend the Civil Service Retirement Act so as to make such act applicable to the officers and employees of the National Library for the Blind, was announced as next in order.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. The bill will be passed over.

The bill (S. 995) to amend the Civil Service Retirement Act so as to make such act applicable to the officers and

employees of the Columbia Institution for the Deaf, was announced as next in order.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. The bill will be passed over.

FORT SUMTER NATIONAL MONUMENT, S. C.

The joint resolution (S. J. Res. 94) to establish the Fort Sumter National Monument in the State of South Carolina, was considered, order to a third reading, read the third time, and passed, as follows:

Resolved, etc., That the Secretary of War is authorized and directed to transfer, without consideration, to the Secretary of the Interior title to the site of the historic structure known as Fort Sumter, situated in Charleston Harbor, Charleston, S. C., together with such buildings and other improvements as are appurtenant to such site.

SEC. 2. The property acquired by the Secretary of the Interior under this joint resolution shall constitute the Fort Sumter National Monument and shall be a public national memorial commemorating historical events at or near Fort Sumter. The Director of the National Park Service under the direction of the Secretary of the Interior shall have the supervision, management, and control of such national monument, and shall maintain and preserve it for the benefit and enjoyment of the people of the United States, subject to the provisions of the act entitled "An act to establish a National Park Service and for other purposes," approved August 25, 1916, as amended.

BILL PASSED OVER

The bill (H. R. 2005) to amend the act of April 21, 1932, entitled "An act to provide for the leasing of the segregated coal and asphalt deposits of the Choctaw and Chickasaw Indian Nations in Oklahoma," was announced as next in order.

Mr. LANGER. Over.

The PRESIDENT pro tempore. The bill will be passed over.

HEALTH AND SAFETY CODE IN COAL MINING

The joint resolution (S. J. Res. 130) establishing a code for health and safety in bituminous coal and lignite mines of the United States, was announced as next in order.

Mr. BYRD. Over.

The PRESIDENT pro tempore. The joint resolution will be passed over.

Mr. REVERCOMB. Mr. President, I tried to get the attention of the Chair when Calendar No. 444, Senate Joint Resolution 130, was called. This joint resolution comes from the Committee on Public Lands. It proposes to establish a code for health and safety in bituminous-coal and lignite mines of the United States. I do not know who made the objection to it. I wish the objection might be withheld.

The PRESIDENT pro tempore. The Chair understood the Senator from Virginia to object.

Mr. BYRD. I think the joint resolution should be discussed more fully than it is possible to discuss it under the 5-minute rule. It is very important legislation.

Mr. REVERCOMB. It is very important legislation, but I should like very much to see it passed before final adjournment.

Mr. BYRD. I do not know that I am opposed to the joint resolution. I may say to the Senator there are quite a number of coal operators in Virginia who are opposed to it. There should be an opportunity for further study.

Mr. TAFT. Mr. President, if the Senator will yield, I will say it is on the list we propose to call up at a later time.

Mr. REVERCOMB. I am certainly very glad to know the joint resolution will be called up for consideration, because it is of great importance.

The PRESIDENT pro tempore. The joint resolution goes over, under objection.

Mr. CORDON subsequently said: Mr. President, I ask unanimous consent to return to Calendar No. 444, for further consideration of the resolution (S. J. Res. 130). As I understand, the senior Senator from Virginia, who made an objection with reference to that calendar number, is now satisfied to withdraw the objection.

Mr. BYRD. Mr. President, I withdraw my objection to the joint resolution. I had in mind the original measure, which I see has now been amended.

The PRESIDENT pro tempore. The senior Senator from Oregon asks unanimous consent to return to Calendar 444. Is there objection?

There being no objection, the Senate proceeded to consider the joint resolution (S. J. Res. 130), establishing a code for health and safety in bituminous-coal and lignite mines of the United States the products of which regularly enter commerce or the operations of which substantially affect commerce, which had been reported from the Committee on Public Lands, with an amendment, to strike out all after the enacting clause, and to insert:

That whenever the Secretary of the Interior, acting through the Director of the Bureau of Mines or his duly authorized representative, shall, upon investigation or inspection of any coal mine, pursuant to the act of May 7, 1941 (55 Stat. 177), find that the safety standards, set forth in the Federal Mine Safety Code for Bituminous Coal and Lignite Mines of the United States, adopted pursuant to an agreement dated May 29, 1946, between the Secretary of the Interior, acting as Coal Mines Administrator, and the United Mine Workers of America, as published in 11 Federal Register 9017 (title 32, CFR, pt. 304, secs. 304.1-304.15), with respect to ventilation, rock-dusting, storage and use of explosives, roof and rib support, the use of water or water with a wetting agent or other means of dust control where mining operations raise an excessive amount of dust, and prevention of fires in the underground workings of the mines, are not being observed, he shall forthwith notify the owner and the operator of such mine and the State agency charged with the enforcement of safety measures in such mine of his findings and recommendations thereon, and request such owner, operator, and State agency severally to report to the Director of the Bureau of Mines the action taken with respect to said recommendations.

SEC. 2. (a) The Secretary of the Interior, acting through the Director of the Bureau of Mines, shall, each 3 months, commencing September 1, 1947, report to the Congress of the United States with respect to the conditions of all bituminous-coal and lignite mines investigated or inspected during the period, all recommendations and notices to the State agencies, and action taken by such mine

owners, operators, and State agencies with respect to his findings and recommendations.

(b) The record of such inspections, findings, recommendations, notices, and reports, with respect thereto, shall be made available for public inspection as soon as practicable.

SEC. 3. (a) "Owner" includes a lessee and any person in possession or custody of a mine.

(b) "Operator" includes any agent, manager, superintendent, cooperative, or other person having control or supervision of a mine, directly or indirectly.

SEC. 4. This act shall remain in effect for a period of 1 year from the date this act is approved.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "Joint resolution relating to safety in bituminous-coal and lignite mines of the United States."

BILL PASSED OVER

The bill (S. 249) to amend the Interstate Commerce Act, as amended, and for other purposes, was announced as next in order.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. The bill will be passed over.

TONGASS NATIONAL FOREST

The joint resolution (S. J. Res. 118) to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest was announced as next in order.

Mr. PEPPER. Over.

Mr. MAGNUSON. Mr. President, I am wondering if the objection to Senate Joint Resolution 118 can be withheld for a moment. I am sure I can explain the purpose of the joint resolution satisfactorily to everyone.

Mr. CHAVEZ. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. CHAVEZ. What happened to Calendar No. 444, Senate Joint Resolution 130?

The PRESIDENT pro tempore. It was passed.

Mr. LODGE. What happened to order No. 445, Senate bill 249?

The PRESIDENT pro tempore. It was passed over.

Objection is heard to the consideration of the joint resolution (S. J. Res. 118).

The joint resolution will be passed over.

Mr. PEPPER subsequently said: Mr. President, let me inquire what action was finally taken on Calendar No. 446, Senate Joint Resolution 118, during the call of the calendar.

Mr. WHERRY. Mr. President, that measure was passed over.

The PRESIDENT pro tempore. Not only was it passed over, but a subsequent request to recur to it was objected to.

Mr. PEPPER. Mr. President, I had objected. I told the Senator from Washington that after an explanation was had from him, I would be glad to withdraw my objection.

The PRESIDENT pro tempore. The Chair understood that the Senator from New Mexico also objected.

Mr. PEPPER. If there was no other objection, I was going to ask that the joint resolution be presently considered.

BILLS PASSED OVER

The bill (S. 1502) to authorize contribution to the International Children's Emergency Fund of the United Nations, was announced as next in order.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. The bill will be passed over.

DENTAL RESEARCH INSTITUTE

The bill (S. 176) to provide for, foster, and aid in coordinating research relating to dental diseases and conditions, was announced as next in order.

SEVERAL SENATORS. Over.

The PRESIDENT pro tempore. The bill will be passed over.

Mr. SMITH. Mr. President, I ask that Senators who object to calendar order No. 449, Senate bill 176, permit me to give a word of explanation, which may clarify the situation. I do not know who objected. The bill is to provide for, foster, and aid in coordinating research relating to dental diseases and conditions. It was passed last year by this body. It was not reached by the House before adjournment. It is the same bill, with a change of date proposed by the Committee on Labor and Public Welfare, with, I think, but one dissenting vote. It is an important measure and has been considered for some time. It provides, briefly speaking, for the dental research institute that has been discussed at some length, to be established at Bethesda, Md., and provides \$2,000,000 and an annual appropriation of \$730,000 for dental research. That is as far as the bill goes. As a member of the Subcommittee on Health, I think I can say the bill has been very carefully considered by the committee and was reported by the committee, I think, with only one dissenting vote.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. The bill will be passed over.

BILL PASSED OVER

The bill (S. 1454) to amend the Public Health Service Act was announced as next in order.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. The bill will be passed over.

SALE OF PHOTOGRAPHIC REPRODUCTIONS OF RECORDS

The bill (H. R. 2573) to authorize the Director of the United States Geological Survey to produce and sell copies of aerial or other photographs and mosaics, and photographic or photostatic reproductions of records, on a reimbursement of appropriations basis, was considered, ordered to a third reading, read the third time, and passed.

INCORPORATION OF AMVETS

The bill (H. R. 1888) to incorporate the AMVETS, American Veterans of World War II, was announced as next in order.

Mr. TAYLOR. Mr. President, I should like to call attention to the fact that this bill grants a Federal charter to the AMVETS, the World War II veterans' organization. I should also like to say that there has been a bill introduced to grant a charter to the AVC. It was introduced by the Senator from Michigan [Mr. FERGUSON], the Senator from New Mexico [Mr. HATCH], and the Senator

from West Virginia [Mr. KILGORE]. I think, Mr. President, that if we are going to grant a charter to the AMVETS, we should also grant a charter to the AVC, because if it is not done at this time, it obviously will not be done at this session. That would give the AMVETS a year's advantage over the AVC. I think the AMVETS are a splendid organization. I am thoroughly in accord with the idea of granting them a Federal charter, but I think that we should treat both organizations alike. The AVC is an organization at least as large as the AMVETS. At their recent convention a modest staff of officials was elected, to pursue a moderate course. I think they are fully entitled to have their charter granted at the same time; so, Mr. President, I ask that the bill (S. 523) to grant a charter to the AVC be included as an amendment to H. R. 1888, the bill to grant a Federal charter to the AMVETS.

The PRESIDENT pro tempore. First, the Chair must again inquire, is there objection to the consideration of this bill?

Mr. TAYLOR. I am reserving the right to object so that the other bill may be added to it.

The PRESIDENT pro tempore. The Chair again asks whether there is objection to the consideration of the bill. It cannot be amended until it has been taken up.

SEVERAL SENATORS. Over!

Mr. KNOWLAND. Mr. President, I hope the able Senator from Idaho will not object to this bill. The other one can be considered in due course. I would certainly have no objection to the other one, but this has been on the calendar for a long time. This is the veterans' organization of World War II. There is every reason, based on the length of time it has been on the calendar, for its consideration. I certainly hope my able friend from Idaho will not object to its consideration.

The PRESIDENT pro tempore. The Chair heard numerous other objections.

Mr. REVERCOMB. Mr. President, I want to express the view that if any Senators have objected to taking up consideration of the bill providing for incorporation of AMVETS they should reconsider and withdraw their objections. There are many requests before the committee respecting the incorporation of various veterans' organizations, and the requests will come up for hearing at the proper time. It was the judgment of the Committee on the Judiciary, however, that the bill to incorporate the AMVETS should be passed at this time. The organization is a very worthy one, one which we feel should be considered, and I hope Senators who objected will withdraw their objections to the passage of the bill.

Mr. BALDWIN. Mr. President, may I make an inquiry of the chairman of the committee having such bills in charge. There are three other bills which would incorporate veterans' organizations which have been referred to the Committee on the Judiciary. One is the Jewish War Veterans, Senate bill 1375. Another is the Catholic War Veterans, Senate bill 1557. Another is the Gold Star Wives, Senate bill 1074. Then there is the American Veterans' Committee,

(c) For the purpose of carrying out the provisions of this act the Temporary Board may seek information from such sources and conduct its studies and investigations in such manner as it deems advisable in the interest of a correct ascertainment of the facts. The Temporary Board shall have the power to hold hearings and to require by subpoena or otherwise the attendance of such witnesses, the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable.

Sec. 5. There is hereby authorized to be appropriated such sums, not to exceed \$50,000, as may be necessary to enable the Temporary Board to carry out its functions under this act.

Sec. 6. The members of the Temporary Board designated by the President shall receive a per diem allowance, of \$25 for each day, or part thereof, of service in attending meetings of the committee and necessary traveling expenses incurred while so engaged. Other members of the Board shall be allowed all expenses necessary for travel and subsistence incurred while so engaged in the activities of the Temporary Board.

Sec. 7. Nothing contained in this act shall be considered as directing the Temporary or any board established pursuant to its recommendations to consider, and they are hereby specifically directed not to consider, the consolidation or merger of the armed forces.

The amendments were agreed to.

The PRESIDENT pro tempore. The Chair lays before the Senate a bill coming over from the House of Representatives, which will be stated by title.

The CHIEF CLERK. A bill (H. R. 3587) to establish a National Aviation Council for the purpose of unifying and clarifying national policies relating to aviation, and for other purposes.

Mr. BREWSTER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House bill 3587.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to consider the bill (H. R. 3587).

Mr. BREWSTER. Mr. President, I move that all after the enacting clause of the House bill be stricken out and that Senate bill 1433, as amended, be substituted.

The motion was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The PRESIDENT pro tempore. Without objection, Senate bill 1433 will be indefinitely postponed.

Mr. BREWSTER. Mr. President, I move that the Senate insist on its amendment, ask for a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. BREWSTER, Mr. HAWKES, and Mr. JOHNSON of Colorado conferees on the part of the Senate.

AMENDMENT OF NATIONALITY ACT OF 1940

Mr. LODGE. Mr. President, I withdraw my objection to Calendar 515, House bill 84.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 84) to amend the Nationality Act of 1940, as amended.

Mr. HATCH. Mr. President, may we have an explanation of the bill?

Mr. WILEY. Mr. President, the two objectives of the bill are briefly but fully set forth in the letter of the Acting Secretary of State to the former chairman of the Committee on Immigration and Naturalization on a bill of the Seventy-ninth Congress, H. R. 6838; and in the letter of the Acting Attorney General to the committee on the pending bill.

The purpose of section 1 of the bill is to make certain that the benefits of section 317 (c) of the Nationality Act do not run in favor of citizens who lost their status because of service in the armed forces of enemy countries. The purpose of section 2 of the bill is to guarantee that citizens who lost their citizenship because of service in Allied armies may reacquire the same citizenship status as that which existed prior to its loss. In other words, if a native-born United States citizen lost his citizenship by service in the Canadian Army, he could reacquire the status of a native-born United States citizen by taking the oath, whereas if a naturalized citizen is involved, he would reacquire the status of a naturalized United States citizen by taking the oath.

Mr. RUSSELL. Mr. President, am I to understand that if a naturalized American citizen who had been a native of Rumania, was in that country at the time Rumania went into the war, and was drafted into the Rumanian Army, this bill would forever forbid him becoming an American citizen, but if he happened to be a citizen of Yugoslavia and was drafted into the Yugoslavian Army, he could meet the requirement of American citizenship? Is that the effect of the bill?

Mr. WILEY. No. The provision is: The provisions of this subsection shall not apply to any person who lost citizenship in the United States by reason of entering or serving in the armed forces of any country while such country was at war with the United States.

The bill was referred to the Senator from West Virginia [Mr. REVERCOMB], who was chairman of the subcommittee, and he will explain it further.

Mr. REVERCOMB. Mr. President, if a native-born American citizen joins a foreign army, he loses his citizenship. The bill merely provides that American citizens who joined the armies of the Allies and lost their citizenship are restored to citizenship as they had it before they enlisted.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

Mr. RUSSELL. Mr. President, if I understand the bill properly, a naturalized citizen of the United States who was an Italian national, who happened to be in Italy at the outbreak of the war and was drafted into the Italian Army, could not regain his citizenship by virtue of

this bill, whereas if he were a national of some other European country which was allied with us, he could regain his citizenship on taking the oath. It seems to me the bill is very discriminatory, and if my understanding is correct, I should like to have it go over.

The PRESIDENT pro tempore. The bill will go over.

ALIEN SPOUSES

The bill (H. R. 3149) to amend the act approved December 28, 1945, an act to expedite the admission to the United States of alien spouses, was considered, ordered to a third reading, read the third time, and passed.

EDNA RITA SAFFRON FIDONE

The bill (H. R. 555) for the relief of Edna Rita Saffron Fidone was considered, ordered to a third reading, read the third time, and passed.

KUO YU CHENG

The bill (H. R. 379) for the relief of Kuo Yu Cheng was considered, ordered to a third reading, read the third time, and passed.

ANTONIO BELAUSTEGUI

The bill (H. R. 649) for the relief of Antonio Belaustegui was considered, ordered to a third reading, read the third time, and passed.

EXTENSION OF TIME FOR FILING PATENT APPLICATIONS

The bill (H. R. 3958) to extend temporarily the time for filing applications for patents and for taking actions in the United States Patent Office with respect thereto was considered, ordered to a third reading, read the third time, and passed.

CONSTRUCTION LOANS BY FEDERAL AGENCIES

The Senate proceeded to consider the bill (S. 1487) to remove restrictions upon loans by Federal agencies to finance the construction of certain public works.

Mr. REVERCOMB. Mr. President, I ask for an explanation of the bill.

Mr. SPARKMAN. Mr. President, this bill seeks to remove a restriction that was placed in a deficiency appropriation bill in the fiscal year 1946, which reads as follows:

No loans shall be made or participated in by any Federal agency for the construction of any public works, plans for which have been wholly or partly financed out of this appropriation, except in pursuance of specific authorization.

In that deficiency bill there was appropriated the sum of \$12,500,000, under the provisions of title V of the War Mobilization and Reconversion Act of 1944, for post-war planning. There has been a total appropriation of \$65,000,000, but this limitation pertains only to \$12,500,000, so that when a town or city or county becomes eligible to receive a portion of the planning money, it is difficult to tell whether it is to come out of the \$12,500,000 or out of the \$52,500,000.

Mr. REVERCOMB. Mr. President, if the Senator will yield, did not that restriction require that the money be used only for certain authorized purposes? Is not that the restriction which the Senator is trying to remove?

Mr. SPARKMAN. No. The whole \$65,000,000 which has been appropriated in the various appropriation bills was for a certain purpose, but the restriction was placed on only one of the bills, which contained the \$12,500,000. It is virtually an administrative impossibility to tell whether the funds that a town or city or county may get for planning purposes comes out of the \$12,500,000 or out of the \$52,500,000. Bear in mind how it might affect a town, city, or county. It gets money from the Federal Government for planning purposes. Suppose that a part of the planning has to do with the relocation of streets for through highways, the removal of grade crossings at railroads, or many other things pertaining to highways. If any of the \$12,500,000 were used for the purpose of such planning, then it would be impossible for that particular town, city, or county to participate in the Federal aid highway funds; it would be ineligible. Suppose that the planning of some particular city situated on a river involved for instance flood control; it would then be absolutely impossible, if it used a part of the \$12,500,000, to get any help from the Federal Government for flood control. However, if it used its funds out of the \$52,500,000 it would be eligible. The removal of this restriction applies to all other cities and towns and municipal governments throughout the United States that may share in the planning funds on an equal basis, and removes an administrative difficulty.

The PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the proviso contained in the first paragraph under the caption "Office of the Administrator" under "Federal Works Agency" in title I of the First Deficiency Appropriation Act, 1946 (59 Stat. 638), is hereby repealed.

DISTRICT OF COLUMBIA UNEMPLOYMENT COMPENSATION ACT

The Senate proceeded to consider the bill (H. R. 3864), to amend the District of Columbia Unemployment Compensation Act with respect to contribution rates after termination of military service, which had been reported by the Committee on the District of Columbia, with amendments, on page 3, line 7, after the word "act", to strike out "be considered to have been erroneously collected" and to insert "be subject to" adjustment against subsequent contributions by him"; and on line 13, after the word "adjustment", to strike out "or a refund."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

SECTION 3121 OF THE INTERNAL REVENUE CODE

The Senate proceeded to consider the bill (S. 1576) to amend section 3121 of the Internal Revenue Code.

Mr. HATCH. Mr. President, may we have an explanation of the bill?

Mr. MILLIKIN. In connection with the applications for industrial alcohol permits and their revocation, the Treasury holds hearings. Heretofore it has been necessary to depend very often upon affidavits. Under the Administrative Procedure Act, it is feared that the courts may insist upon the testimony of witnesses personally summoned, because the Procedure Act requires that the interested party shall have the right to cross-examine witnesses, and so forth. So as a matter of precaution, and in order that the Treasury may protect itself in securing proper testimony, they want the definite right to subpoena witnesses.

The PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That section 3121 of the Internal Revenue Code is hereby amended by redesignating subsection (d) as subsection (e) and by inserting a new subsection (d) to read as follows:

"(d) Applicability of other laws: The provisions, including penalties, of sections 9 and 10 of the Federal Trade Commission Act (U. S. C., title 15, secs. 49, 50), as now or hereafter amended, shall be applicable to the jurisdiction, powers, and duties of the Commission under this part, and to any person (whether or not a corporation) subject to the provisions of this part."

TONGASS NATIONAL FOREST

Mr. MAGNUSON. Mr. President, I ask unanimous consent to return to Calendar No. 446, Senate Joint Resolution 118.

Mr. CHAVEZ. Mr. President, I dislike very much having to object to the request of my good friend from Washington to return to the consideration of Senate Joint Resolution 118, but let us proceed in an orderly way. Let us complete the call of the calendar, and then return to it. I object.

The PRESIDENT pro tempore. Objection is heard.

SPECIAL COINAGE

The bill (H. R. 1180) to authorize the coinage of 50-cent pieces in commemoration of the one hundredth anniversary of the admission of Wisconsin into the Union as a State, was announced as next in order.

Mr. LODGE. Mr. President, I should like to ask a question of the Senator in charge of this bill. Does this mean that the rule which the Banking and Currency Committee used to have, of not authorizing any special coinage, has been suspended?

Mr. McCARTHY. This is a House bill, and the committee report from the House indicated that they would oppose any special coinage, except, first, in the case of a centennial or bicentennial anniversary, and, second, in case the legislative body of a State requested such coinage. With that limitation we could see no objection to the passage of the bill.

Mr. LODGE. I notice there are two other similar bills on the calendar. Did they all meet that same formula?

Mr. McCARTHY. Not entirely. I shall be glad to explain it. I thought we would get to the other bills. I would be

glad to explain them. There is one which provides for a coin for the State of Utah. I think the Senator from Utah [Mr. WATKINS] may request that that go over until the next call of the calendar. The other bill, a bill proposed by the Senators from Virginia, I cannot find on the calendar at the moment.

Mr. TAFT. It is Calendar 567.

Mr. McCARTHY. I thank the Senator. I frankly did not recall it, since I did not report it. I do not recall the exact circumstances surrounding it. It was in connection with a Patrick Henry celebration, a matter apparently of national significance. We frankly thought it was of sufficient importance, and that, since it would cost the Federal Government nothing, it was probably all right to let it pass.

Mr. LODGE. The reason I ask is that there have been other times when other Senators have desired to have special coins, and they were told there was a hard-and-fast rule against it. I was wondering whether at this time that rule had been abandoned.

Mr. McCARTHY. I may say there is some relaxation of the rule.

The PRESIDENT pro tempore. The question is on the third reading of the bill.

Mr. GURNEY. Mr. President, reserving the right to object, I should like to ask the Senator from Wisconsin whether his committee considered the bill I introduced asking for the striking of commemorative coins for the Mount Rushmore National Memorial. The Federal Government is obligated to spend about \$300,000 in connection with the memorial, and the people of South Dakota feel that if a commemorative coin can be minted we could save the Federal Government that particular appropriation, and could get the work done immediately. Until I know what action will be taken with the bill I introduced, I shall have to object to the passage of any bill providing for the minting of commemorative coins.

Mr. McCARTHY. The Senator's bill apparently has not received consideration by the subcommittee. I can assure the Senator that it is apparently an oversight. The Senator from Vermont [Mr. FLANDERS] is chairman of the subcommittee. I know of no objection to the immediate consideration of the Senator's bill. When was it introduced?

Mr. GURNEY. I regret that I must object, because I have had the matter up with the Treasury Department back and forth over a period of several months, and I am told that they will object to all commemorative-coin bills. The Rushmore project is of national interest, and I believe our request is just as worthy of acceptance as the mintage of coins commemorating the one hundredth anniversary of pioneers coming into a State. Therefore, Mr. President, I object.

The PRESIDENT pro tempore. The Senator from South Dakota objects.

Mr. McCARTHY subsequently said: Mr. President, I ask unanimous consent to revert to House bill 1180, Calendar 527, to authorize the coinage of 50-cent pieces in commemoration of the one hundredth

Calendar No. 596

80TH CONGRESS
1ST SESSION

H. J. RES. 205

IN THE SENATE OF THE UNITED STATES

JULY 16, 1947

Read twice and ordered to be placed on the calendar

JOINT RESOLUTION

To authorize the Secretary of Agriculture to sell timber within
the Tongass National Forest.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That "possessory rights" as used in this resolution shall
4 mean all rights, if any should exist, which are based upon
5 aboriginal occupancy or title, or upon section 8 of the Act
6 of May 17, 1884 (23 Stat. 24), section 14 of the Act of
7 March 3, 1891 (26 Stat. 1095), or section 27 of the
8 Act of June 6, 1900 (31 Stat. 321), whether claimed by
9 native tribes, native villages, native individuals, or other
10 persons, and which have not been confirmed by patent or
11 court decision or included within any reservation.

1 SEC. 2. (a) The Secretary of Agriculture, in contracts
2 for the sale, or in the sale, of national forest timber under
3 the provisions of the Act of June 4, 1897 (30 Stat. 11, 35),
4 as amended, is authorized to include timber growing on any
5 vacant, unappropriated, and unpatented lands within the
6 exterior boundaries of the Tongass National Forest in Alaska,
7 notwithstanding any claim of possessory rights. ~~All such~~
8 ~~contracts and sales heretofore made are hereby validated.~~

9 (b) The Secretary of the Interior is authorized to
10 appraise and sell such vacant, unappropriated, and unpat-
11 ented lands, notwithstanding any claim of possessory rights,
12 within the exterior boundaries of the Tongass National
13 Forest as, in the opinion of the Secretary of the Interior and
14 the Secretary of Agriculture, are reasonably necessary in
15 connection with or for the processing of timber from lands
16 within such national forest, and upon such terms and
17 conditions as they may impose.

18 *New subsection (c) in Senate bill.*

19 (c) The purchaser shall have and exercise his rights
20 under any patent issued or contract to sell or sale made
21 under this section free and clear of all claims based upon
22 possessory rights.

23 SEC. 3. (a) All receipts from the sale of timber or
24 from the sale of lands under section 2 of this resolution shall
25 be maintained in a special account in the Treasury until
26 the rights to the land and timber are finally determined.

1 (b) Nothing in this resolution shall be construed as
2 recognizing or denying the validity of any claims of posses-
3 sory rights to lands or timber within the exterior boundaries
4 of the Tongass National Forest.

Passed the House of Representatives July 15, 1947.

Attest:

JOHN ANDREWS,

Clerk.

Calendar No. 596

80TH CONGRESS
1ST SESSION

H. J. RES. 205

JOINT RESOLUTION

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I have found, Mr. President, that criticism of a CVA on the assumption that it does not safeguard adequately existing water rights comes largely, not from irrigation farmers, but from interests which do not want to see development of the Pacific Northwest and will go to any lengths to try to stop that development, whether it be through a CVA, the Bureau of Reclamation or otherwise. A CVA, far from injuring present water rights, will provide the water to make those rights good and to create additional ones. At present many farmers have water rights, but insufficient water to go with the right. We badly need more reclamation dams.

One of the most attractive features of a Columbia Valley Authority from the standpoint of the Federal Government is that it will be largely self-liquidating over a period of years. The Government will be repaid the funds it advances to build dams, out of revenues from reclamation and power.

But far more than that, the increased value of the land and the taxable value of the many new industries and the other new wealth created will bring in far more money to the Federal Government in the long run. In addition the bill provides for payments in lieu of taxes to State and local governmental agencies. But again, the increased taxes which will be paid by the prosperous new residents, the new industries and the increased value of newly-irrigated land will yield far more to local governments.

Now there is another aspect to this problem to which I should like to call the attention of the Senate, Mr. President. That is the national defense aspect. We are all hoping and praying that the time will never come when this Nation will have to fight another major war. We are doing everything in our power to prevent that eventuality. But nevertheless we recognize that the possibility of another war exists. Modern war, we have seen demonstrated again and again, is won in the last analysis by industrial power. Ours is the greatest industrial Nation in the world. We must keep it so. As our expendable fuels such as coal and oil approach the vanishing point in the years to come we will place more and more reliance on electrical energy. Hydroelectric power is not dissipated. The water is not worn out or used up in generating electric power. It is a continuing resource.

We have seen the tremendous contribution made in the last war by the Tennessee Valley Authority through the huge amounts of electrical energy generated there. Mr. President, we can provide many times that amount of power in the Columbia and Snake River Valleys if only it is developed. I say a Columbia Valley Authority is an essential part of the defense plans of this Nation which can no longer be neglected. The power generated through the dams of a CVA will attract major industries to the Northwest, resulting in a greater dispersal of the industrial capacity of the Nation. At the present time a few atomic bombs, well placed in the East, could cripple us as an industrial Nation. The factories of the Pacific Northwest will be more difficult to find in the great forests and rugged terrain of our mountainous country.

Mr. President, I have often heard it said about CVA that, yes, TVA was necessary to rehabilitate a depleted economy; and that, yes, a Missouri Valley Authority is needed to prevent the disastrous and recurring Midwest floods, but—you have no such problems in the Columbia Valley.

That statement seems to me to reflect a tragically short-sighted view. True, the effects of erosion, of bad mining practices, of too heavy forest cutting, and of floods are not yet as apparent in the Pacific Northwest as they were in the Tennessee Valley and as they are in the Missouri Valley. Must we always wait until the horse is far down the road before we lock the barn door?

The floods thus far have been minor compared to the devastation wreaked by the rampaging Missouri and Mississippi Rivers. But given a few more years of unchecked erosion they will become respectable floods even by Midwest standards. The Boise River, a tributary of the Snake, consistently floods out valuable farm land. In eastern Idaho, the south fork of the Snake River has irreparably damaged fertile acres in the areas from Heise to Roberts, to the extent that Congress has been appropriating hundreds of thousands of dollars for construction of levees, the while it cut appropriations for construction of the Pallsade Dam, upstream, which could provide a final solution.

In the Panhandle of Idaho we have thousands of acres of reclaimed farm land which is below the level of the river. The river is diked, but almost every year the Kootenai River overruns the dikes and the crop loss runs into the thousands.

If we allow the forces of erosion to work their havoc on the Northwest for another few decades we can produce a crisis in our section equal to those in the Tennessee Valley of a few years ago and those of the Missouri Valley at the present time. But how much easier to act preventatively and affirmatively now.

The energies of a Columbia Valley Authority can be concentrated on developing our great section for the benefit of the Nation, and at the same time can head off such disasters as the recent series of floods in the Missouri and Mississippi Valleys. Must Congress always act in an atmosphere of crisis? Must we always avoid taking action in the calm atmosphere of affirmative planning for the future? I admit it is much less dramatic that way—the creation of opportunity for happy families and national development does not offer the drama which comes from running to the rescue of flood victims or poverty-stricken victims. But surely it is a better way to build a great nation.

Although the situation of the Pacific Northwest is by no means as critical in the sense of a current emergency, it is critical when we judge it in the space of a score or so of years.

For example, here is the situation regarding several of our major industries and resources:

The United States Forest Service reports that 80 percent of the first-grade timber in the Pacific Northwest has been logged off, and that about 20 percent of it remains. The Forest Service has estimated that at the present rate of timber cutting in our region all of the merchantable timber—both publicly and privately owned—will be cut down and hauled off in 25 years.

Soil experts of the Pacific Northwest estimate that every decade 1 acre out of 10 of productive farmland in our section is stripped of its fertility. That is partially the result of overgrazing and excessive timber cutting, which can be corrected by cooperative action through a CVA.

The fertility of our farms in the Northwest has been high because we have relatively new land. It has not been cultivated as long as the farmlands of the Tennessee Valley. But we are arriving at the stage wherein we must begin to think of using fertilizers to augment the fertility of the soil.

In Idaho we have 60 percent of this Nation's raw phosphate rock. To turn those huge mountains of phosphate into a form which can be assimilated by depleted farmlands we need large blocks of electric power from CVA dams. When the power is brought to those phosphate beds there will be tremendous opportunity for private enterprise to set up a major industry. And the resulting phosphate fertilizer, when available to farmers cheaply and in large quantities, can revitalize the farms, not only of the Northwest but of large sections of the Midwest and the Southwest.

MAJOR CHANGES OVER MITCHELL BILL (S. 1716, 79TH CONG., 1ST SESS.)

This bill substantially follows S. 1716 introduced in the Seventy-ninth Congress by Senator Mitchell. The Mitchell bill was the result of a great deal of joint effort by all groups interested in a Columbia Valley Authority, assisting Senator Mitchell.

A continuing study by those same groups has developed the desirability of some changes. Briefly these are:

1. The control of the corporation still is vested in three directors who shall be appointed by the President with the advice and consent of the Senate. However, it is now provided that at least two members of the board must have been legal residents of the Columbia Valley region for at least 5 years. This change has been made to insure that a majority of the members of the board shall be familiar with the peculiar problems of the Northwest, and will be sympathetic with the desires of the people. It is recognized that there should be room on the three-man board for one member who may be thoroughly familiar with valley development, but who may not be a resident of the Northwest.

2. The machinery for obtaining local participation in the planning and policy making of the CVA, which was informal in the Mitchell bill has been formalized in this measure through creation of an advisory committee of 24 members. The advisory committee is required to meet twice a year and may meet oftener, either on petition of a majority of its members or on call of the Chairman of the CVA board of directors. It is required to act in an advisory capacity upon matters of broad policy, and in addition must offer counsel on such specific questions as the board may refer to it. The advisory committee is designed to provide an effective method for organizing participation of local people, State governments, and the regional offices of the National Government.

It is made up of a representative of these Government agencies: Departments of Interior, Agriculture, Commerce, Justice, and War; the Federal Power Commission, Federal Security Agency, and the Board of Governors of the Federal Reserve System.

These State agencies are represented: A representative of the governor of the States of Washington, Oregon, Idaho, and Montana.

The President shall select 12 residents of the CVA area as members of the advisory committee with 3 representing each of these activities: Agriculture, commerce, labor, and wildlife and aquatic life, conservation, and recreation.

3. The section of the Mitchell bill turning over to the CVA any Federal surplus property it desires has been eliminated. The majority of such surplus property has now already been disposed of by the Federal Government and the provision is in no way necessary to the success of the CVA.

4. That section of the Mitchell bill which allowed the CVA to use any patents on file with the Patent Office has been eliminated as unnecessary. The patent provision now merely requires that any inventions made and patented by CVA employees by virtue of their employment with the corporation shall be the property of CVA which in turn may pay a fair amount to the employee making the discovery. This provision is designed to give the public the benefit of any patents for which Federal funds have been paid to finance development.

5. The Mitchell bill provided for accounting practices deemed eminently safe, but the Congress has now developed a uniform safeguard on accounting practices in the form of the Government Corporation Control Act of 1945. This bill places the CVA under that act to make it uniformly responsible to the General Accounting Office with other similar agencies. The CVA corporation is also required to set up its accounting system on electric power revenues and expenses to con-

form with the Federal Power Commission uniform system of accounts. Regular annual reports to the Congress and the President are required as previously.

6. The Mitchell bill provided for the transfer only of certain reclamation projects and dams to the Columbia Valley Authority from existing governmental agencies. Others were to be transferred later at the discretion of the President. It is now thought that such dual control of the water in the channel projects of the Columbia Valley would defeat the purpose of the CVA by adding still another Federal agency to the present multiplicity of agencies dealing with water use development. This bill provides that all dams and reservoirs, existing and authorized, in the Columbia Valley would be transferred to the CVA, although the corporation could allow their operation by the agency from which they were transferred.

Mr. President, a Columbia Valley Authority can provide for the people of our Nation opportunities which stagger the imagination.

It can insure the fullest development of the resources with which God has endowed our country. If we fail to take advantage of this bright opportunity, we will, indeed, be remiss in our duty, not only to the people of the great Pacific Northwest, but to the millions all over the Nation who will benefit by the development.

Our Nation and the world needs the food which can be grown on those now barren, unreclaimed acres in the Northwest.

Our Nation needs the huge blocks of hydroelectric power which, unharnessed, now are running away to the sea.

Our Nation needs the expansion of industry which will come from the application of hydroelectric power to the raw materials of the Northwest.

Our Nation needs to conserve its forests, soil, mineral, water, and the recreational opportunities in this section so that they will be available to future generations as they have been to past generations.

Our Nation needs to develop the great river system of the Northwest so that it can help carry the increased commerce—the products of the new industry and new farms.

A Columbia Valley Authority can make these grand objectives a reality. Let us not delay. Let us fulfill our obligations to the future.

EXTENSION OF VETERANS' PREFERENCE BENEFITS TO WIDOWED MOTHERS OF CERTAIN EX-SERVICEMEN—AMENDMENTS

Mr. TYDINGS submitted amendments intended to be proposed by him to the bill (S. 416) to extend veterans' preference benefits to widowed mothers of certain ex-servicemen, which were ordered to lie on the table and to be printed.

EXTENSION OF DISTRICT OF COLUMBIA RENT CONTROL—AMENDMENT

Mr. OVERTON submitted an amendment intended to be proposed by him to the bill (H. R. 7131) to extend for the period of 1 year the provisions of the District of Columbia Emergency Rent Act, approved December 2, 1941, as amended, which was ordered to lie on the table and to be printed.

HOUSE BILLS AND JOINT RESOLUTION REFERRED OR PLACED ON CALENDAR

The following bills and joint resolution were severally read twice by their titles and referred or ordered to be placed on the calendar, as follows:

H. R. 185. An act to authorize the sale of certain public lands in Alaska to the Catholic Society of Alaska for use as a mission; and

H. R. 3064. An act authorizing and directing the Secretary of the Interior to issue a patent in fee to the surviving members of the Laguna Band of Mission Indians of California; to the Committee on Public Lands.

H. R. 388. An act for the relief of Bert Harrington, Jr.;

H. R. 434. An act for the relief of Lewis H. Rich;

H. R. 439. An act for the relief of Roy Durbin;

H. R. 618. An act for the relief of Fred O. Donohue;

H. R. 640. An act for the relief of Harley Shores;

H. R. 769. An act for the relief of the estate of Ruth Horton Hunter;

H. R. 890. An act for the relief of Jessie Thompkins;

H. R. 1078. An act for the relief of Mrs. Audrey Ellen Gooch;

H. R. 1085. An act for the relief of Mrs. Marie Salamone;

H. R. 1175. An act for the relief of the estate of Daphne Ward Pope, deceased;

H. R. 1215. An act for the relief of Kazue Oda Takahashi;

H. R. 1226. An act for the relief of Mrs. Maud M. Wright and Mrs. Maxine Mills;

H. R. 1316. An act for the relief of Archer C. Gunter;

H. R. 1319. An act for the relief of Calvin J. Frederick;

H. R. 1643. An act for the relief of Willie P. Goodwin, J. M. Thorud, and W. H. Stokley;

H. R. 1654. An act for the relief of the estate of Mrs. Elizabeth Campbell;

H. R. 1730. An act for the relief of Mrs. Beulah Hart;

H. R. 1744. An act for the relief of the estate of Curtis Wilson, deceased;

H. R. 1864. An act for the relief of Mrs. Raiford D. Smith;

H. R. 1933. An act for the relief of Mrs. Elizabeth F. McComble;

H. R. 1953. An act for the relief of John F. Reeves;

H. R. 2129. An act for the relief of R. C. Owen, R. C. Owen, Jr., and Roy Owen;

H. R. 2212. An act for the relief of A. J. Sprouffske;

H. R. 2348. An act for the relief of Charles J. Smith;

H. R. 2350. An act for the relief of Mrs. Daisy Park Farrow;

H. R. 2373. An act for the relief of Stanley-Yelverton, Inc.;

H. R. 2374. An act for the relief of Nita H. Stanley;

H. R. 2432. An act for the relief of Harry V. Ball;

H. R. 2506. An act for the relief of the estate of Louis T. Klauder;

H. R. 2534. An act for the relief of James H. Underwood;

H. R. 2811. An act for the relief of G. F. Allen, former Chief Disbursing Officer, Treasury Department, and for other purposes;

H. R. 3068. An act for the relief of Alfred Thomas Freitas;

H. R. 3118. An act for the relief of Mrs. Susan W. Roe;

H. R. 3168. An act for the relief of Antone G. Pina;

H. R. 3361. An act for the relief of J. Rutledge Alford;

H. R. 3495. An act for the relief of Andrew C. Extrom and Harry C. Pearson; and

H. R. 3845. An act for the relief of George J. Hiner; to the Committee on the Judiciary.

H. R. 2471. An act to provide for periodical reimbursement of the general fund of the District of Columbia for certain expenditures made for the compensation, uniforms, equipment, and other expenses of the United States Park Police force;

H. R. 2984. An act to amend the act of June 1, 1910, so as to regulate the installation of radio or television transmitting an-

tennae, masts, or other structures in the District of Columbia;

H. R. 3045. An act to authorize the Commissioners of the District of Columbia to prescribe the processes and procedures for recording instruments of writing in the Office of the Recorder of Deeds of the District of Columbia, and for other purposes;

H. R. 3852. An act to amend the act entitled "An act for the retirement of public-school teachers in the District of Columbia," approved August 7, 1946;

H. R. 3878. An act to redefine the powers and duties of the Board of Public Welfare of the District of Columbia, to establish a Department of Public Welfare, and for other purposes;

H. R. 3978. An act to provide for the temporary advancement in rank and increase in salary of lieutenants in the Metropolitan Police force of the District of Columbia serving as supervisors of certain squads; and

H. R. 3998. An act to provide for regulation of certain insurance rates in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

H. R. 3813. An act to provide for removal from, and the prevention of appointment to, offices or positions in the executive branch of the Government of persons who are found to be disloyal to the United States; to the Committee on Civil Service.

H. R. 3726. An act for the relief of certain officers and employees of the Foreign Service of the United States who, while in the course of their respective duties, suffered losses of personal property by reason of war conditions; and

H. J. Res. 205. Joint resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest; ordered to be placed on the calendar.

MEETING OF COMMITTEE DURING SENATE SESSION

Mr. WHITE. Mr. President, I ask unanimous consent that the Antidiscrimination Subcommittee of the Committee on Labor and Public Welfare be permitted to sit during this afternoon's session of the Senate.

The PRESIDENT pro tempore. Without objection, the order is made.

EDUCATION THROUGH MEDIUM OF MOTION PICTURES—STATEMENT BY SENATOR MARTIN

Mr. MARTIN. Mr. President, I ask unanimous consent to have printed in the body of the RECORD a statement prepared by me on Education Through the Medium of the Motion Picture.

There being no objection, the statement was ordered to be printed in the body of the RECORD as follows:

Mr. MARTIN. Mr. President, there is before the Senate a measure by the distinguished senior Senator from Vermont recommending Government production of films about the American system of constitutional government. It is proposed to make these films available to schools as educational documents in order to inculcate into our young people a better understanding of the American system.

This is a notable purpose. But I should like to see such films shown to that very large portion of our adult population which attends the motion-picture theaters. In my opinion it is just as important for our adults to see such motion pictures, as it is for our children.

In this connection, I want to call the attention of this body to an important venture of a similar nature already accomplished through private enterprise. During the past decade, there has been produced a series of patriotic featurettes in color about American history. Not only have they been widely ex-

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14. SUGAR. The Finance Committee reported with an amendment H.R. 4075, the proposed Sugar Act of 1948, which amends and extends the 1937 act (S.Rept. 578) (p.9291). The Daily Digest states that the amendment is "relative to fair wage scale and employment of minors (to carry out intent of S. 1584)" (p. D553).
15. NATIONAL FORESTS. Passed over on the objection of Sen. Langer, M.Dak., S.J.Res. 118, to authorize the sale of timber on the Tongass National Forest, Alaska, in such a way as to facilitate pulp production in view of the aboriginal claims of Indians (p. 9310). Sen. Cain, Wash., inserted a Seattle Times article, "Congress Action Now Vital if Alaska is to Get Pulp Industry" (p. 9310).
16. STATISTICS. Passed with amendments S. 1497, to direct the Census Bureau to collect, collate, and publish various statistics on oilseeds in addition to those on cottonseed and cottonseed products presently published; and expand reporting to include production, stocks, and shipments of oilseed meals and other primary oilseed products (pp. 9307-8).
17. PERSONNEL; TRANSPORTATION. Passed without amendment H.R. 187, to authorize transportation for U.S. civilian employees stationed in Alaska on airplanes of the Army transport service (p. 9301). This bill will now be sent to the President.
18. APPROPRIATIONS. Sen. O'Mahoney, Wyo., discussed the status of the major appropriation bills, criticizing the delay in getting the bills through Congress, and stating "It is due to the fact that the bills have not passed the House of Representatives in time for the Senate committee to give any consideration to them" (pp. 9314-6).
19. PERSONNEL. Sen. Lodge, Mass., discussed the civil service efficiency rating system and its relation to retention of employees and stated "I believe that immediate revision of the present regulation concerning the priority of non-veteran retention, supplemented by a thorough overhaul of personnel evaluation techniques, will do much to insure that our executive branch is populated with men and women of real ability" (pp. 9319-21).
20. LIVESTOCK SUBSIDIES. The Banking and Currency Committee reported with amendment S. 1429, to authorize retroactive subsidies to certain livestock slaughterers who became eligible under a regulation effective July 23, 1945, changing the definition of a non-processing slaughterer (S.Rept. 576) (p. 9291).
21. FARM LABOR. Sen. Pepper, Fla., criticized the discontinuing of the migratory farm-labor program (p. 9344).
22. LANDS. Passed as reported S. 1368, to increase the size of isolated or disconnected tracts or parcels of the public domain which may be sold (p. 9301).
23. ROADS. Received from the Interior Department a proposed bill to extend the Federal Aid Road Act to Alaska and to transfer certain functions of the Interior Department to the Public Roads Administration; to Public Works Committee (p. 9291).
24. PRICES. The Banking and Currency Committee approved (but did not actually report) S.Con. Res. 19, to establish a joint committee to investigate prices of consumer goods (p. D552).
25. RFC; VETERANS' BENEFITS. The Banking and Currency Committee approved (but did

not actually report) S. 1543, to restore to RFC Act certain provisions concerning GI loans (p. D552).

BILLS INTRODUCED

26. FARM LABOR. H.R. 4254, by Rep. Bramblett, Calif., providing for the disposition of farm-labor camps to public or semipublic agencies or nonprofit associations of farmers. To Agriculture Committee. (p. 9400.)
27. R.F.C.; VETERANS' BENEFITS. H.R. 4249, by Rep. Bryson, S.C., amending the Reconstruction Finance Corporation Act in order to authorize the purchase by RFC of loans which are guaranteed or insured under the GI Bill. To Banking and Currency Committee. (p. 9400.)
28. HOUSING. H.Con. Res. 104, by Rep. Wolcott, Mich., to establish a joint congressional committee to be known as the Joint Committee on Housing. To Rules Committee. (p. 9401.)
29. VETERANS' EMPLOYMENT. S. 1652, by Sen. Bridges, N.H. (for himself and others), to promote maximum employment, business opportunities, and careers for veterans in a free competitive economy. To Labor and Public Welfare Committee. (p. 9292.) Remarks of author (pp. 9321-31).

ITEMS IN APPENDIX

30. SOIL CONSERVATION; FERTILIZERS. Extension of remarks of Rep. Murray, Wis., on the importance of soil conservation programs, and including and discussing tabulation of soil conservation appropriations since 1934 (pp. A3803-4); and inserting and discussing tabulations of fertilizers used under this program (pp. A3828-30).
Rep. Stigler, Okla., inserted Hugh H. Bennett's Washington Evening Star article, "The Land is Our Sustenance--Erosion has Damaged More Than Half of Our Farmland and Threatens World's Food Supply" (pp. A3815-6).
31. MONOPOLIES. Speech in the House by Rep. Kefauver, Tenn., urging that big business monopolies be curbed (pp. A3804-7).
32. RESEARCH. Speech in the House by Rep. Gross, Pa., favoring creation of a National Science Foundation (pp. A3811-2).
33. FOREIGN RELIEF. Rep. Arnold, Mo., inserted a Wall Street Journal editorial on the need for aid to foreign countries (pp. A3812-3).
34. FLOOD CONTROL. Extension of remarks of Rep. Burleson (Tex.) and Rep. Fisher (Tex.) favoring the President's flood-control plan and calling attention to need for flood-control work in sections other than the Miss. and Mo. valleys (pp. A3814, A3815).
35. EMPLOYEES' LOYALTY. Rep. Buchanan, Pa., inserted a N.Y. Times editorial opposing the Federal Employees' Loyalty Act (p. A3817).
36. SUGAR IMPORTS. Rep. Wiechel, Ohio, inserted an Alvado, Ohio, resolution urging an investigation as to why sufficient sugar is not being imported into the U.S. from sugar-producing countries to remove all rationing (p. A3818).
37. ECONOMIC REPORT. Rep. Colmer, Miss., inserted Marion B. Folsom's (treas. Eastman Kodak Co.) statement on economic conditions, favoring particularly consideration of parity prices by the Joint Committee on Economic Report (pp. A3819-22).

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The amendment will be stated.

The CHIEF CLERK. In line 7, it is proposed to strike out "1947" and insert in lieu thereof "December 31, 1947".

Mr. TAFT. Mr. President, I did not understand the amendment.

The PRESIDENT pro tempore. The amendment will be restated.

The CHIEF CLERK. In line 7, it is proposed to strike out "1947" and insert in lieu thereof "December 31, 1947".

Mr. McGRATH. I might explain that the amendment merely corrects a technical error in the printing of the bill. It makes no change in the bill itself.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "An act to extend for 3 months the provisions of the District of Columbia Emergency Rent Act, approved December 2, 1941, as amended."

Mr. McGRATH. Mr. President, this is a House bill the Senate has amended, and I believe it is in order at this time that I move that the Senate insist upon its amendment, ask for a conference with the House thereon, and that the Chair appoint the conferees on behalf of the Senate. I do so move.

The motion was agreed to and the President pro tempore appointed Mr. BUCK, Mr. BALL, and Mr. McGRATH conferees on the part of the Senate.

INCREASES IN CIVIL WAR AND SPANISH-AMERICAN WAR PENSIONS

Mr. RUSSELL. Mr. President, inasmuch as the RECORD erroneously indicates that I interposed objection to order No. 497, House bill 3961, to provide increases in the rate of pension payable to Spanish-American War and Civil War veterans and their dependents, I should like to inquire whether that bill has been passed today. If it has not, I think the bill should be again called, because I do not like to have the RECORD show I objected to it. Then any Senator who wished to do so could interpose objection.

The PRESIDENT pro tempore. The Senator from Georgia asks unanimous consent that the Senate recur to Calendar No. 497, House bill 3961.

Mr. BYRD. Mr. President, I do not think that bill should be passed on the Unanimous Consent Calendar, and I object.

The PRESIDENT pro tempore. The Senator from Virginia objects.

SPECIAL COINAGE COMMEMORATIVE OF ADMISSION OF WISCONSIN

Mr. JOHNSON of Colorado. Mr. President, earlier in the day I objected to three bills, so-called special coinage bills. I objected because I have a similar bill pending in the Committee on Banking and Currency. I felt that no special coinage bill should be considered on the calendar unless all pending bills were

considered. My bill is still in committee. However, I do not wish to be an obstructionist, so I am withdrawing my objection to Calendar 527, House bill 1180, and ask that it be considered.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Colorado that the Senate recur to Calendar No. 527, House bill 1180, to authorize the coinage of 50-cent pieces in commemoration of the one-hundredth anniversary of the admission of Wisconsin into the Union as a State?

Mr. TAFT. I object.

The PRESIDENT pro tempore. The Senator from Ohio objects.

Mr. MURRAY. Mr. President—

Mr. TAFT. Mr. President, if the bill to which I have just objected is the Wisconsin bill, I do not wish to object.

Mr. JOHNSON of Colorado. It is the Wisconsin bill.

The PRESIDENT pro tempore. The objection is withdrawn?

Mr. TAFT. Yes.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

Mr. FULBRIGHT. Mr. President, there seem to be other Senators interested in similar bills. I do not see the Senator from Virginia present. There are three similar bills. I have no interest in any of them, except that I am a member of the committee and heard the discussion. There are three different bills, as I have said. I do not know why the Senator from Colorado is selecting one. Why not take them all?

Mr. JOHNSON of Colorado. I cannot take them all three at one time.

Mr. FULBRIGHT. Does the Senator intend to ask that they all be taken up?

Mr. JOHNSON of Colorado. Yes, one at a time.

The PRESIDENT pro tempore. Is there objection to the consideration of House bill 1180?

There being no objection, the bill (H. R. 1180) to authorize the coinage of 50-cent pieces in commemoration of the one hundredth anniversary of the admission of Wisconsin into the Union as a State was considered, ordered to a third reading, read the third time, and passed.

SPECIAL COINAGE COMMEMORATIVE OF UTAH PIONEERS

Mr. JOHNSON of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 539, which is the Utah coinage bill.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to consider the bill (S. 421) to authorize the coinage of 50-cent pieces in commemoration of the one hundredth anniversary of the entrance of the Utah pioneers into Salt Lake Valley on July 24, 1847, which was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That in commemoration of the one-hundredth anniversary of the entrance of the Utah pioneers into Salt Lake Valley on July 24, 1847, there shall be coined not to exceed 500,000 silver 50-cent pieces of standard size, weight, and compo-

sition, and of a special appropriate design to be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury, but the United States shall not be subject to the expense of making the necessary dies and other preparations for such coinage.

SEC. 2. The coins herein authorized shall bear the date of the year in which they are minted, shall be legal tender to the amount of their face value, and shall be issued only upon the request of the treasurer of the State of Utah, upon the payment by it of the par value of such coins. Such coins shall be issued in such numbers and at such times during the calendar year 1947 as shall be requested by such State of Utah and may be disposed of at par or at a premium, and the net proceeds shall be used for the observation of the centennial as directed by the Governor of the State of Utah.

SEC. 3. All laws now in force relating to the subsidiary silver coins of the United States and the coining or striking of the same; regulating and guarding the process of coinage; providing for the purchase of material; and for the transportation, distribution, and redemption of coins; for the prevention of debasement or counterfeiting; for the security of the coins; or for any other purpose, whether such laws are penal or otherwise, shall, so far as applicable, apply to the coinage herein authorized.

SPECIAL COINAGE COMMEMORATIVE OF PATRICK HENRY

Mr. JOHNSON of Colorado. Mr. President, I ask unanimous consent that the Senate recur to Calendar No. 567, Senate bill 318, the Virginia coinage bill.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the bill (S. 318) to authorize the coinage of 50-cent pieces to commemorate the patriotic services of Patrick Henry was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That to commemorate the life and patriotic services of Patrick Henry for the independence and liberty of our country and especially to aid in preserving his home and last resting place at Red Hill, Va., forever as a national patriotic shrine, there shall be coined by the Director of the Mint not exceeding 300,000 silver 50-cent pieces of standard size, weight, and fineness and of a special appropriate design to be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury, but the United States shall not be subject to the expense of making the models for master dies or other preparations for their coinage.

SEC. 2. The coins herein authorized shall be issued at par and only upon the request of the Patrick Henry Memorial Foundation, Inc., a corporation founded for the purpose of perpetuating the patriotic services of Patrick Henry and maintenance of his home at Red Hill, Va., as a patriotic shrine.

SEC. 3. Such coins may be disposed of at par or at a premium by such banks or trust companies, or other financial institutions, selected by the Patrick Henry Memorial Foundation, Inc., and all proceeds thereof shall be used to maintain and preserve as a suitable memorial the last home and burial place of Patrick Henry at Red Hill, Va., and as may be decided upon by the Patrick Henry Memorial Foundation, Inc.

SEC. 4. The coins authorized herein shall be issued in such numbers, and at such times, as shall be requested by the Patrick Henry Memorial Foundation, Inc., and upon payment to the United States of the face value of such coins: *Provided*, That none of such coins shall be issued after the expiration of the 5-year period immediately following the enactment of this act.

SEC. 5. That all laws now in force relating to the subsidiary silver coins of the United States and the coining or striking of the same; regulating and guarding the process of coining; providing for the purchase of material, and for the transportation, distribution, and redemption of the coins; for the prevention of debasement or counterfeiting; for security of the coin; or for any other purposes, whether said laws are penal or otherwise, shall, as far as applicable, apply to the coinage herein directed.

DENTAL RESEARCH INSTITUTION

Mr. MURRAY. Mr. President, I ask unanimous consent that the Senate recur to Calendar No. 449, Senate bill 176, to provide for, foster, and aid in coordinating research relating to dental diseases and conditions.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

Mr. WHERRY. Over.

Mr. MURRAY. Mr. President, I wish to state we held extensive hearings on this bill, that it passed the Senate a year ago, and it seems to me it is of great importance to the country that the research bureau provided for in the bill should be established, because of the need for research along this line. It is supported by the American Association of Dentists, and I do not know of any objection. The bill passed the Senate before, and it should be passed again. I wish to ask what objection there is to it.

The PRESIDENT pro tempore. Is there objection?

Mr. WHERRY. Mr. President, I was one of those who objected yesterday, on behalf of a Senator who is not on the floor today. I understand the bill carries an appropriation of about \$2,000,000; does it not?

Mr. MURRAY. Yes.

Mr. WHERRY. I suggest to the distinguished Senator that he press for consideration of the bill at the next call of the calendar, which I think will be arranged at almost any time, and that he confer with the Senator who asked me to object.

The PRESIDENT pro tempore. The bill will be passed over.

Mr. MURRAY. Mr. President, this bill has the unanimous support of the members of the committee.

Mr. WHERRY. I am not in any way objecting to the bill personally; I want that understood; but inasmuch as the bill carries an appropriation of \$2,000,000, a distinguished Senator asked me to object to it yesterday, and I ask whether the Senator will not join with me and let the matter go over until the next call of the calendar. I am satisfied the Senators might iron out their differences.

Mr. MURRAY. If the bill is not passed at this time, we will not be able to get it through at this session at all. It has the unanimous support of the majority members of the committee. In fact, it was unanimously reported.

Mr. WHERRY. I should like to accommodate the Senator—

The PRESIDENT pro tempore. Does the Senator from Nebraska object?

Mr. WHERRY. I do.

The PRESIDENT pro tempore. The bill will be passed over.

SALE OF TIMBER IN TONGASS NATIONAL FOREST

Mr. MAGNUSON. Mr. President, I ask that the Senate recur to Calendar No. 446, Senate Joint Resolution 118, to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest.

The PRESIDENT pro tempore. Is there objection to the consideration of the joint resolution?

Mr. LANGER. I object.

The PRESIDENT pro tempore. The Senator from North Dakota objects.

Mr. MAGNUSON. Mr. President, I hope the Senator from North Dakota will allow me to explain the purpose of the bill and the necessity of getting something done during this session, before he objects. I hope he will reserve the right to object, and allow me to explain the bill.

Mr. BUTLER. Mr. President—

Mr. MAGNUSON. Will the Senator from North Dakota do that?

Mr. BUTLER. Will the Senator yield to me for a moment in order that I may make a statement?

The PRESIDENT pro tempore. As the matter stands, the bill will have to go over, unless the Senator from North Dakota withdraws or suspends his objection.

Mr. LANGER. I withdraw it, if Senators desire to make a statement. I am going to object, anyway, when they get through.

The PRESIDENT pro tempore. The Senator from Nebraska is recognized under the 5-minute rule.

Mr. BUTLER. Mr. President, I do not care to waste my breath.

The PRESIDENT pro tempore. The Senator from North Dakota objects.

Mr. MAGNUSON. Mr. President, I have the floor. I yielded to the Senator from Nebraska.

Mr. WHERRY. Mr. President—

The PRESIDENT pro tempore. The Senator from North Dakota, as the Chair understands, objects to the request to recur to Senate Joint Resolution 118. Therefore, it is passed over.

Mr. CAIN. Mr. President, the senior and junior Senators from Washington would like to give notice of their intention to call up Order 446, Senate Joint Resolution 118, at the earliest possible moment.

I request unanimous consent, out of order, to have inserted in the RECORD an article entitled "Congress Action Now Vital if Alaska Is To Get Pulp Industry," from the Seattle Times, covering the subject of the resolution under discussion.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESS ACTION NOW VITAL IF ALASKA IS TO GET PULP INDUSTRY

(By Ross Cunningham)

The legislation proposed in Congress which would clear the way for a pulp industry in southeastern Alaska was involved today in a race against time.

Congress is scheduled to adjourn at the end of the month, proponents of the legislation point out, and if the measure is not passed by then the entire project will be held up indefinitely.

Plans are well under way for two mills between Ketchikan and Juneau and it is hoped to get them started as soon as possible to offset the shortage of pulp. The next few years are looked upon as the advantageous time for the development of the industry. This advantageous time might be lost if Congress fails to act in this session.

One site is at Thomas Bay 14 miles north of Petersburg where there is a suitable site at Cascade Falls for waterpower near the geographical center of Tongass National Forest. This forest has enough suitable timber for production of pulp over virtually an unlimited period of time.

The second site is near Ketchikan, but its exact location has not been announced publicly.

Some progress has been made in Congress toward compromising the Indian claims, which are the main blocks in the way of passage of the legislation. Representatives of some of the Indians contend the legislation should specify that 10 percent of the proceeds from the sale of the timber should be divided among the natives.

While not disputing that the Indians may have a valid claim, many Alaskans see a dangerous precedent if such a clause were included in the legislation.

If the Indians have a valid claim to 10 percent of the proceeds from the timber, this also could be construed as setting a figure for future claims by the Indians against all property in Alaska.

This would include the townsites, fishing grounds, agricultural lands in central Alaska, mineral development, and other resources.

The claims might even be held to be retroactive.

Former Secretary of the Interior Harold Ickes is blamed by Alaskans for setting in motion the Indian claims when his Department instituted the action 2 years ago by which representatives of the natives claimed the fishing rights.

There is a growing feeling in Alaska that the native claims should be settled for once and for all so they will not be raised again to cloud the issue when the Territory is on the threshold of achieving developments which it expects in coming years.

Several methods of enabling the pulp industry to be started immediately, without prejudicing the native claims, have been advanced. The suggestion most widely advocated in Alaska is to pass a simple bill assuring the industry permanence of its supply of timber, and allow the claims to be settled later.

Present thinking in Congress is to expedite the measure, with the idea of taking care of the claims in subsequent legislation or through a court test. Previous court tests of the Indian claims have been adverse to the natives.

There are bills in both branches of Congress. Committees of each House have reported their bills out favorably, but with amendments. These amendments are in conflict and will have to be settled in conference. This will require considerable legislative action within the next 2½ weeks if a consolidation is to be effected and final passage achieved.

DOCUMENTATION OF DREDGE "AJAX" AND EQUIPMENT

Mr. MAGNUSON. Mr. President, I have another unanimous-consent request to submit. I should like to have the Senate recur to Calendar No. 533, Senate bill 885, relating to the dredge *Ajax*.

The PRESIDENT pro tempore. Is there objection to the request of the Sen-

13. MEXICAN FENCE. Passed as reported S.J.Res. 46, to provide for a fence along the Mexican border to provide protection from animal diseases, etc. (pp.10016-7).
14. RESEARCH LAND. Passed without amendment H.R. 2511, to authorize sale of a 2-acre tract of land in the Agricultural Research Center, Beltsville, to the Queens Chapel Methodist Church (p. 10018). This bill will now be sent to the President.
15. FOREST SERVICE LAND. Passed with amendment S. 1505, to direct transfer to Boise, Idaho, of 9 lots of a 5-acre tract of land donated to the U.S. by Boise and now used by Forest Service as a site for central repair shops (pp. 10018-9).
16. RECLAMATION. Passed without amendment S. 1639, authorizing repair and rehabilitation of irrigation works damaged by flood and prevention of flood damage in Fort Sumner irrigation district (pp. 10021-2).
17. FOREIGN AFFAIRS. Passed without amendment S. 1574, to authorize any Government agency to furnish or to procure and furnish materials, supplies, and equipment to public international organizations (pp. 10035-6).
18. PERSONNEL RETIREMENT. Passed without amendment H.R. 1995, to amend the Civil Service Retirement Act to provide for return of the amount of deductions from compensation of any employee who is separated from service or transferred to a position not within the purview of the Act before completing 10 years of service (pp. 10044-5). This bill will now be sent to the President.
19. VETERANS PREFERENCE. Passed without amendment S. 1493, to amend the Veterans' Preference Act so as to require Federal agencies to comply with CSC recommendations on appeals of preference eligibles. The vote was then reconsidered at the request of Sen. Taft, Ohio, and the bill was passed over (p. 10045).
Passed without amendment S. 1494, to amend the Veterans' Preference Act so as to make it mandatory for administrative officers to take corrective action recommended by CSC in the case of appeals of preference eligibles (p.10042).
Passed as reported S. 999, to amend the Veterans' Preference Act so as to limit service-connected disability preference to disabilities compensable under laws administered by VA, War, or Navy Departments; provide that preference points shall be added only to earned ratings which meet the minimum qualification rate for a particular examination; and provide that in examinations for guards, elevator operators, messengers, and custodians, competition shall be restricted to persons entitled to preference (p. 10008).
20. BILLS PASSED OVER. The following bills were discussed and passed over:
Remount Service. H.R. 3484, to transfer this Service to the Department of Agriculture from the War Department (pp. 1004-5).
Grain bonus. S. 669, to provide for payment of the 30-cent wheat and corn bonus on grain produced and sold between Jan. 1, 1945, and Apr. 18, 1946 (p. 9997).
Subsistence expense. S. 544, to increase the subsistence-expense allowances (pp. 9999-10000).
Appropriations. S. Con. Res. 6, to include all general appropriation bills in one consolidated bill (p. 10006).
Research; Information. S. 493, to provide for coordination of agencies disseminating technological and scientific information (pp. 10006-7).
Forests. H.J.Res. 205, to permit timber sales in the Tongass National Forest, Alaska, in such a way as to facilitate pulp production (pp.10008-9, 10024-5).
Veterans' Preference. S. 416, to extend veterans' preference benefits to widowed mothers of certain ex-servicemen (p. 100017).
Farm training. H.R. 2181, relating to institutional on-farm training for veterans (pp. 10027, 10058).

21. NATIONAL FORESTS. The Agriculture and Forestry Committee approved (but did not actually report) H.R. 1826, making it a petty offense to enter any national forest land closed to the public (p. D590).
22. MARKETING. The Agriculture and Forestry Committee approved (but did not actually report) H.R. 4124, to amend the peanut marketing quota provisions of the Agricultural Adjustment Act; and H. R. 452, to amend the Agricultural Marketing Agreement Act (p. D590).
23. RESEARCH. The Agriculture and Forestry Committee approved (but did not actually report) H.R. 4110, to amend the Research and Marketing Act so as to provide that not less than 20% of the funds "appropriated", rather than those "authorized to be appropriated", for general research shall be used by the State agricultural experiment stations for conducting marketing research projects approved by the USDA (p. D590).
24. LATIN AMERICA. Passed without amendment S. 1678, to provide for the reincorporation of the Institute of Inter-American Affairs (pp. 10052-3). This bill will now be sent to the President.
25. LANDS. The Interstate and Foreign Commerce Committee reported without amendment H.R. 3043, to transfer the Crab Orchard Creek land utilization project and the Ill. Ordnance Plant to the Interior Department for use as a wildlife management area, except that lands not required for such area may be leased under certain conditions (S.Rept. 701) (p. 9993).
26. MINERALS. The Public Lands Committee reported without amendment H.R. 1602, to stimulate exploration, development, and production from domestic mines by continuing for 2 years the premium price plan for copper, lead, and zinc through RFC (S.Rept. 709) (p. 9993).

HOUSE

27. FARM LOANS. The Veterans Affairs Committee reported without amendment H.R. 4309, to amend title III of the Servicemen's Readjustment Act of 1944 pertaining to "Loans for the purchase or construction of homes, farms, and business property," so as to provide more adequate and effective farm-loan benefits (H.Rept. 1039) (p. 9989). The Daily Digest states that this bill would authorize "Farm Credit Administration to make direct loans to World War II veterans (p. D591).
28. INDEPENDENT OFFICES APPROPRIATION BILL, 1948. Received the conference report on this bill, H.R. 3839 (pp. 9979-81).
29. COMMITTEES. Rep. Wat Arnold, Mo., was elected to the Agriculture Committee vice Rep. Clevenger, Ohio, resigned and Rep. Clevenger was elected to the Appropriations Committee vice Rep. Jones, Ohio, resigned (p. 9943). Reps. Pickett (Tex.), and Mack (Wash.) were elected to the Public Works Committee (pp. 9942-3).
30. ACCOUNTING. The Expenditures in the Executive Departments Committee reported with amendments S. 1350, which authorizes GAO to relieve disbursing and other accountable officers for physical loss or deficiency of Government funds, vouchers, checks, etc., under certain conditions not involving fault or negligence (H.Rept. 1040) (p. 9989).
The Expenditures in the Executive Departments Committee reported with amendment S. 907, to provide for the orderly transaction of public business in the event of the death, resignation, or separation from office of regional disbursement officers of the Treasury Department (H.Rept. 1046) (p. 9989).

then it has been greatly changed. Representing the War Department, Maj. Gen. Henry S. Aurand, Director of the Research and Development Division of the General Staff, testified in favor of the bill, as now written. About all the bill now provides for is a clearing house for information about new developments in science. I may say that the Congress, without this legislative authority, appropriated sufficient money to enable the Department of Commerce to handle the work temporarily, with regard to new inventions brought out in Germany, but I want to read one short statement of General Aurand:

The wide dissemination of scientific and technical information is the cornerstone of scientific progress. At the present time there is no central clearing house either in the Government or in private life for the broad field of scientific and technical information. Government or private research organizations in instituting new projects must sometimes spend considerable sums on preliminary documentary research in order to obtain background material from many different technical libraries and document collections throughout the United States.

He goes on to develop that thought. Practically the same thing is said by Rear Adm. Paul F. Lee, Chief of Naval Research, who stated:

I believe the establishment of a centralized agency in the Government, having full information on all inventions and discoveries, patented or unpatented, which results from current research and development, would be desirable, so long as military information vital to national security is protected.

I might say the bill has for its primary purpose the protection and promotion of small business. The only person objecting to the bill is Mr. Blood, a member of the patent committee of the National Association of Manufacturers. It is my belief that the purpose of the bill is completely misunderstood, and I think that not one-tenth of the membership of that association would object to the bill if they knew what its purpose was. The original bill provided for assistance to research, which was offensive to certain private research people. That has been eliminated, but it has been so difficult to get the attention of the National Association of Manufacturers that they have persisted in their opposition to the bill, I believe. I think the bill would be very valuable to small business, which it was originally designed to promote. In addition, it has the full and unqualified support of the Research and Development Division of the War Department, and of the Navy. I think it is a great disservice to the country, and especially to small business, to delay action on the bill further. As I said, it has been before the Congress now well over a year.

Mr. FERGUSON. Mr. President, in view of the fact that I am a member of the committee which dealt with the matter I should like to make a statement as to the reason why I object. I wish to make the statement not only for myself, but on behalf of other Senators.

The PRESIDENT pro tempore. The junior Senator from Michigan is recognized for 5 minutes.

Mr. FERGUSON. The bill would simply create another bureau, a large agency in the Department of Commerce,

without any restraint as to certain activities which I will now describe. The bill would authorize the Secretary of Commerce "to establish and maintain within the Department of Commerce a clearinghouse for the collection,"—hear me, Senators—"for the collection, dissemination, and exchange of scientific, technical, and engineering information, and to this end to take such steps as he may deem necessary and desirable."

In other words, all engineering information in the United States could be collected, disseminated, and exchanged, under the terms of the bill.

Then under paragraph (a) of section 2, the Department of Commerce is given the right—

To search for, collect, classify, coordinate, integrate, record, and catalog such information from whatever sources, foreign and domestic, that may be available.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. FERGUSON. I shall yield in a moment. The bill would allow the Department of Commerce to have agents all over the world, not only in the United States, but in every factory, in every organization all over the world, collecting technical information and engineering information. There would not be a plant in the United States into which they could not go to obtain information, because the bill would authorize them to go into such plants. I think the terms of the bill are too broad. I think many of its provisions are not necessary.

We have the Patent Office now. We have the greatest library in the world, in the Library of Congress. We have every means of collecting such information. It is not a question of objecting because the National Manufacturers Association objects. The reason for objection is that the bill, if passed, would build up a new organization, a new bureau upon which there would be no limitation, and we would find that in a very short time we would be spending millions of dollars upon it.

The Senate committee bill does not vary much from the House bill. Under the House bill offices could be established in every county and every city of the United States to help in the development of patents and in research. The Senate bill would do practically the same thing by allowing the agents of the Department of Commerce to go into every business organization and obtain, or try to obtain the information desired.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. FERGUSON. I yield.

Mr. FULBRIGHT. I should like to point out that the Department of Commerce is already doing most of this work in Germany with the present force. The testimony shows that the "bureau," as the Senator calls the organization, would be practically self-sustaining. I think it would be under the present operation. Inquiries for the information in question are now running at the rate of approximately 8,000 a month. The organization is self-sustaining, paying its cost to the Government. The idea that agents would go into every factory in

the world is nonsense. They would go into only those which have the data we do not have, which in the present instance are in Germany. That is the only country I know of, aside from the United States, where any of this work is being done. Certainly we are not going to Indochina or to Timbaktu, or any other place I can now think of. The bill does not involve any great expense. The testimony is very clear on that point. The bureau, which is proposed to be set up, is already in existence in the Department of Commerce, and is doing at this moment, what the legislative authority sought under the bill provides shall be done. The bill would not create anything other than is now in the Department of Commerce. It would not result in any cost, in view of the fact that the organization would be self-sustaining, or if there were any cost to the Government it could only be a very small amount.

Mr. President, I cannot understand how such an organization would cost all the millions of dollars suggested unless the Congress should appropriate such amounts for it. I do not understand such an argument at all, because unlimited funds are not asked for the organization. I think the Senator from Michigan is entirely in error about the organization being a great new bureau which would cost a tremendous amount of money.

Mr. FERGUSON. Mr. President, as a member of the Appropriations Committee I am familiar with such matters, and I know what happens after such an organization is set up. Its representatives will later come to Congress and say "You have authorized thus and so. Are you now going to restrict the operations?"

Mr. President, I have no objection to collecting all the information desired in Germany. The War Department has been doing that. If a bill is drafted along that line I certainly shall vote for it. But that is not the idea behind the pending bill at all. This was an idea conceived by Mr. Wallace when he was Secretary of the Department of Commerce. It has been somewhat narrowed from the original idea, but the bill would provide about the same authority previously sought.

Mr. FULBRIGHT. Mr. President—

The PRESIDENT pro tempore. The time of the Senator from Michigan has expired. Under objection, the bill will be passed over.

BILLS PASSED OVER

The bill (H. R. 1389) to amend the Veterans' Preference Act of 1944, was announced as next in order.

Mr. PEPPER. Over.

The PRESIDENT pro tempore. The bill will be passed over.

The bill (S. 1486) to provide for payment of salaries covering periods of separation from the Government service in the case of persons improperly removed from such service, was announced as next in order.

Mr. TAFT. At the request of the senior Senator from Minnesota [Mr. BALL], I object.

The PRESIDENT pro tempore. The bill will be passed over.

Mr. THYE. Mr. President, did the Senator from Ohio object to consideration of Senate bill 1486?

Mr. TAFT. Yes; I made the objection at the request of the senior Senator from Minnesota [Mr. BALL].

Mr. THYE. I am sorry the senior Senator from Minnesota is not present at the moment.

Mr. TAFT. Mr. President, perhaps we can pass the bill over temporarily until the senior Senator from Minnesota returns.

The PRESIDENT pro tempore. The bill will be temporarily passed over.

PAYMENT OF OVERTIME COMPENSATION TO CERTAIN SUPERVISORY EMPLOYEES

The bill (S. 697) to provide for payment of overtime compensation to supervisory employees in the field service of the Post Office Department, was announced as next in order.

Mr. BALDWIN. Mr. President, the House has passed a bill identical with the Senate bill. I ask unanimous consent that the House bill be substituted for the Senate bill, and that the House bill be considered and passed, so the measure may become law without any further parliamentary procedure.

The PRESIDENT pro tempore. The House bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (H. R. 3075) to amend the act of July 6, 1945, relating to the classification and compensation of employees of the postal service, so as to provide proper recompense in the form of compensatory time for overtime performed by supervisors.

The PRESIDENT pro tempore. Is there objection to substituting the House bill for the Senate bill and to its present consideration?

There being no objection, the bill (H. R. 3075) to amend the act of July 6, 1945, relating to the classification and compensation of employees of the postal service, so as to provide proper recompense in the form of compensatory time for overtime performed by supervisors, was considered, ordered to a third reading, read the third time, and passed.

The PRESIDENT pro tempore. Without objection, Senate bill 697 will be indefinitely postponed.

BILLS PASSED OVER

The bill (S. 1393) to increase the permitted rate of allowance and compensation for training on the job under Veterans Regulation No. 1 (a) as amended, was announced as next in order.

Mr. TAFT. Over.

The PRESIDENT pro tempore. The bill will be passed over.

Mr. MORSE. Mr. President, I wish to make a statement or two in regard to Senate bill 1393. I ask my good friend from Ohio—

Mr. TAFT. I will say that I intend to bring it up just as soon as we can after the call of the calendar is completed.

Mr. MORSE. With that understanding I shall not make any further comment on the bill at this time other than that I think it should be passed.

The bill (H. R. 3309) to amend the Organic Act of Puerto Rico was announced as the next in order.

Mr. BREWSTER. Over.

The PRESIDENT pro tempore. The bill will be passed over.

FEDERAL EMPLOYMENT OF DISABLED VETERANS

The Senate proceeded to consider the bill (S. 999) to amend the Veterans' Preference Act of 1944 with respect to preference accorded in Federal employment to disabled veterans, and for other purposes, which had been reported from the Committee on Civil Service with an amendment, on page 3, after line 2, to strike out:

SEC. 3. Section 7 of such act is amended to read as follows:

"SEC. 7. The names of preference eligibles shall be entered on the appropriate registers or lists of eligibles in accordance with their respective augmented ratings, and the name of a preference eligible shall be entered ahead of all others having the same ratings: *Provided*, That, except for positions in the professional and scientific services for which the entrance salary is over \$3,000 per annum, the names of all qualified 10-point preference eligibles whose service-connected disability has been rated by the Veterans' Administration to be 30 percent or more at the time of the examination process shall be placed at the top of the appropriate civil-service register or employment list, in accordance with their respective augmented ratings."

So as to make the bill read:

Be it enacted, etc., That section 2 (1) of the Veterans' Preference Act of 1944 (Public Law 359, 78th Cong., 58 Stat. 387) is amended to read as follows:

"(1) those ex-service men and women who have served on active duty in any branch of the armed forces of the United States and have been separated therefrom under honorable conditions and who have established the present existence of a service-connected disability which is compensable under public laws administered by the Veterans' Administration or who are receiving disability retirement benefits by reason of public laws administered by the Veterans' Administration, the War Department, or the Navy Department."

SEC. 2. Section 3 of such act is amended to read as follows:

"SEC. 3. In all examinations to determine the qualifications of applicants for entrance into the service 10 points shall be added to the earned ratings of those persons included under section 2 (1), (2), and (3), and 5 points shall be added to the earned ratings of those persons included under section 2 (4) of this act: *Provided*, That such points shall be added only to earned ratings which are equal to or greater than the minimum rating for qualification as announced by the Civil Service Commission for the particular examination: *Provided further*, That in examinations for the positions of guards, elevator operators, messengers, and custodians, competition shall be restricted to persons entitled to preference under this act as long as persons entitled to preference are available and during the present war and for a period of 5 years following the termination of the present war as proclaimed by the President or by a concurrent resolution of the Congress for such other positions as may from time to time be determined by the President."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 472) to authorize the appropriation of funds to assist the States

and Territories in financing a minimum foundation education program of public elementary and secondary schools was announced as next in order.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. The bill will be passed over.

LEASING OF SEGREGATED COAL AND ASPHALT DEPOSITS OF CHOCTAW AND CHICKASAW INDIAN NATIONS IN OKLAHOMA

The bill (H. R. 2005) to amend the act of April 21, 1932 (47 Stat. 88), entitled "An act to provide for the leasing of the segregated coal and asphalt deposits of the Choctaw and Chickasaw Indian Nations in Oklahoma, and for an extension of time within which purchasers of such deposits may complete payments," was considered, ordered to a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 249) to amend the Interstate Commerce Act, as amended, and for other purposes, was announced as next in order.

SEVERAL SENATORS. Over!

The PRESIDENT pro tempore. The bill will be passed over.

SALE OF TIMBER OF TONGASS NATIONAL FOREST

The joint resolution (S. J. Res. 118) to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest, was announced as next in order.

Mr. CHAVEZ. Over.

The PRESIDENT pro tempore. The bill will be passed over.

Mr. CAPEHART. I should like to ask the Senator, who objected, to withhold his objection for a moment.

Mr. CHAVEZ. I object to the bill.

Mr. CAPEHART. As I understand, the bill has to do with the Tongass National Forest in Alaska. Unless the bill is passed, or a similar bill is passed, it will be impossible for the Interior Department to start any newsprint mills in Alaska. There is a dire newsprint shortage in the world. We are importing 80 percent of our newsprint from foreign countries and are producing only 20 percent ourselves. There is a possibility of a production in Alaska of at least 1,000,000 tons a year. Today in this country we are consuming a little more than 4,000,000 tons a year, and importing 80 percent of it. If we can develop newsprint production in Alaska, we can get an additional production of possibly 1,000,000 tons a year. It will be impossible to proceed in respect to this activity in Alaska until some legislation is passed clearing up certain titles to lands. I consider the bill most important. I believe that any Senator who is as familiar as I am with the newsprint shortage would agree that our only possibility of getting an increased newsprint production lies in Alaska.

Mr. CHAVEZ. Mr. President, will the Senator yield?

Mr. CAPEHART. I yield.

Mr. CHAVEZ. I appreciate everything the Senator from Indiana is saying. I believe that he is familiar with the pulp industry.

I also believe that the Delegate from Alaska [Mr. BARTLETT] probably knows

more about the conditions in Alaska than does any Senator.

Mr. CAPEHART. Mr. President, will the Senator please repeat his statement?

Mr. CHAVEZ. I say I appreciate what the Senator from Indiana has to say about the shortage of pulp, and I want to help him along. I also appreciate the fact that there is a companion measure in the House, which was introduced by the Delegate from Alaska. I feel that the Delegate from Alaska knows more about Alaska than I do. He states in writing that the Senate joint resolution is very damaging to certain persons in Alaska. Hence I shall object to the present consideration of that measure. When House Joint Resolution 205, Calendar No. 596, comes before us for consideration I may change my mind.

Mr. CAPEHART. The Senator is perfectly willing to dispose of the timberland on some basis, as I understand.

Mr. CHAVEZ. I want to go along.

Mr. CAPEHART. It is purely a question at the moment of the best method of doing it.

Mr. CHAVEZ. I am willing to work out some arrangement. I am willing to help as much as I possibly can. But when a man in whom I have confidence, who represents the people of the Territory of Alaska, objects to the Senate bill, I must pay some attention to him.

Mr. BUTLER. Mr. President, I should like to have the attention of the Senator from New Mexico for a moment. The Senator from Wyoming [Mr. O'MAHONEY] has just left the Chamber. He is very anxious to be present when this measure is taken up. So I concur in the objection of the Senator from New Mexico, with the understanding that the joint resolution may be taken up a little later.

The PRESIDENT pro tempore. The joint resolution will be passed over.

Mr. CHAVEZ. Mr. President, that is not the understanding which I have. I stated that when we reach Calendar No. 596, House Joint Resolution 205, I may have no objection.

The PRESIDENT pro tempore. The Senator can maintain his objection.

WOMEN'S CORPS IN THE ARMED SERVICES

Mr. GURNEY. Mr. President, in order to accommodate the Senator from Connecticut [Mr. BALDWIN], who must leave to preside at a hearing, I ask unanimous consent for the present consideration of Senate bill 1641, calendar 585, in advance of its being reached on the call of the calendar, so that the Senator may attend his meeting.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the bill (S. 1641) to establish the Women's Army Corps in the Regular Army, to authorize the enlistment and appointment of women in the Regular Navy and Marine Corps and the Naval and Marine Corps Reserve, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That this act may be cited as the "Women's Armed Services Integration Act of 1947."

TITLE I

ESTABLISHMENT OF WOMEN'S ARMY CORPS, REGULAR ARMY

SEC. 101. Effective the date of enactment of this title, there is established in the Regular Army a Women's Army Corps, which shall perform such services as may be prescribed by the Secretary of War.

SEC. 102. (a) The authorized commissioned, warrant, and enlisted strengths of the Women's Army Corps of the Regular Army shall, from time to time, be determined by the Secretary of War, within the authorized commissioned, warrant, and enlisted strengths of the Regular Army, but shall not exceed 2 percent of such authorized Regular Army strengths, respectively.

(b) There is authorized a strength of 51,000 active list commissioned officers in the Regular Army, exclusive of the numbers authorized by law for the Army Nurse Corps, the Women's Medical Specialist Corps, professors of the United States Military Academy, and any numbers authorized by special provisions of law providing for officers in designated categories as additional numbers.

SEC. 103. (a) From the officers permanently commissioned in the Women's Army Corps, Regular Army, the Secretary of War shall select to serve during his pleasure, but normally not to exceed 4 years, one officer to be Director of the Women's Army Corps who shall be adviser to the Secretary of War on Women's Army Corps matters, and who, without vacation of her permanent grade, shall have the temporary rank, pay, and allowances of a colonel while so serving; one officer to be Deputy Director thereof, who if permanently commissioned in a lower grade shall, without vacation of her permanent grade, have the temporary rank, pay, and allowances of a lieutenant colonel while so serving; and from among officers of the Women's Army Corps (including Women's Army Corps officers of the Army of the United States or any component thereof serving on extended active duty) the Secretary of War shall select to serve during his pleasure such number of officers as he may determine necessary to fill positions designated by him in the administration and training of the Women's Army Corps, who, if permanently commissioned in a lower grade shall, without vacation of permanent grade, have the temporary rank, pay, and allowances of lieutenant colonel or major while so serving, as the Secretary of War may determine: *Provided*, That after July 1, 1952, such officers shall be selected from among commissioned officers in the permanent grade of lieutenant colonel or major, except the Director and Deputy Director who shall be selected from among officers in the permanent grade of lieutenant colonel: *And provided further*, That prior to July 1, 1952, the Secretary of War may extend that date one time until such later date as he may select for that purpose, but such later date shall not be later than July 1, 1956.

(b) Unless entitled to higher retired rank or pay under any provision of law, each such commissioned officer who shall have served for 4 years as Director or Deputy Director of such corps shall upon retirement be retired with the rank held by her while so serving, shall receive retired pay at the rate prescribed by law computed on the basis of the base and longevity pay which she would receive if serving on active duty with such rank, and if thereafter recalled to active service shall be recalled in such rank.

SEC. 104. (a) Commissioned officers of the Women's Army Corps of the Regular Army shall be appointed by the President, by and with the advice and consent of the Senate, from female citizens of the United States who have attained the age of 21 years and who possess such qualifications as may be prescribed by the Secretary of War.

(b) Except as modified or otherwise provided by express provisions of law, original appointments of officers in the Women's Army Corps of the Regular Army shall be made from among qualified female persons in the manner now or hereafter prescribed by law for appointment of male persons in the Regular Army except as may be necessary to adapt said provisions to the Women's Army Corps of the Regular Army.

(c) Officers shall be permanently commissioned in the Women's Army Corps of the Regular Army in grades from second lieutenant to lieutenant colonel, inclusive. The authorized number in permanent grade of lieutenant colonel shall be such as the Secretary of War shall from time to time determine but shall not exceed 10 percent of the total authorized commissioned strength of such corps.

(d) (1) During the interim between the date of enactment of this title and January 1, 1948, officers of the Women's Army Corps of the Regular Army shall be promotion-list officers as contemplated in Public Law 281, Seventy-ninth Congress, approved December 28, 1945, as amended. Effective January 1, 1948, the names of all active list commissioned officers of the Women's Army Corps of the Regular Army shall be carried on a separate promotion list known as the Women's Army Corps promotion list and such officers shall be promotion-list officers as that term is defined under the laws then in effect. On January 1, 1948, the Women's Army Corps promotion list hereinabove described shall be established by entering thereon the names of the officers concerned without change in the order of their precedence on the promotion list contemplated in Public Law 281, Seventy-ninth Congress, approved December 28, as amended.

(2) Except as otherwise prescribed in this title or some other express provision of law, the respective provisions of law now existing or hereafter enacted relating (1) to the procurement, promotion, and elimination from the active list by retirement or discharge of promotion-list officers and (2) to promotion lists as the terms "promotion-list officers" and "promotion list" are from time to time defined by law, are hereby made applicable to the officers of the Women's Army Corps of the Regular Army and to the Women's Army Corps promotion list, respectively.

(3) Effective January 1, 1948, and within the limitations prescribed in this title, the Secretary of War shall prescribe the authorized numbers in each of the several commissioned grades in the Women's Army Corps promotion list under the provisions of law applicable to promotion lists generally. Officers of the Women's Army Corps of the Regular Army shall be permanently promoted to the grades of first lieutenant, captain, and major, as now or hereafter prescribed for promotion to such grades of promotion-list officers as that term is from time to time defined by law, including any special provisions pertaining to promotion to fill initial requirements in such grades on or about July 1, 1948. Officers of the Women's Army Corps of the Regular Army shall be promoted to and appointed in the permanent grade of lieutenant colonel in the Regular Army only when a vacancy exists in the number of lieutenant colonels authorized for the Women's Army Corps promotion list and such officers shall be appointed in that grade only when selected and recommended for that grade by a selection board under regulations prescribed by the Secretary of War.

(4) Under regulations prescribed by the Secretary of War any selection board convened to consider and recommend officers of the Women's Army Corps for promotion to any grade may contain officers of the Women's Army Corps holding permanent or temporary appointment in any grade above major.

(5) Officers of the Women's Army Corps of the Regular Army shall be eliminated from the active list and retired or separated, as the case may be, under the provisions of law now or hereafter applicable to promotion-list officers generally, and they shall receive retired pay or severance pay, whichever is applicable, computed as provided under such law for promotion-list officers generally: *Provided*, That any officer of the Women's Army Corps in the permanent grade of lieutenant colonel may, in the discretion of the Secretary of War, be retained on the active list until that date which is 30 days after the date upon which 30 "years' service" is completed: *Provided further*, That any officer of the Women's Army Corps of the Regular Army in the permanent grade of lieutenant colonel, who is serving in the temporary grade of colonel by virtue of occupying the position of Director of said corps, may, in the discretion of the Secretary of War, be retained on the active list while serving in such temporary grade: *Provided further*, That on and after June 30, 1953, each officer of the Women's Army Corps of the Regular Army, heretofore or hereafter appointed in the permanent grade of major who is not retired or separated at an earlier date under other provisions of law, shall be eliminated from the active list on that date which is 30 days after the date upon which she completes 25 "years' service," unless she is appointed in the permanent grade of lieutenant colonel in the Regular Army before that date: *And provided further*, That the term "years' service" as used in this paragraph shall be construed to include the identical service defined by law to be included in that term under the law now or hereafter applicable to eliminations from the active list of promotion-list officers generally.

(e) The Secretary of War shall prescribe the military authority which commissioned officers of the Women's Army Corps may exercise, and the kind of military duty to which they may be assigned.

(f) The Secretary of War under the circumstances and in accordance with regulations prescribed by the President, may terminate the commission of any officer appointed in the Women's Army Corps.

SEC. 105. Under such regulations as the Secretary of War may prescribe, female citizens of the United States may be appointed in the Women's Army Corps, Regular Army, in the permanent grade of warrant officer (junior grade) and in the permanent grade of chief warrant officer under the provisions of law now or hereafter applicable to appointment of male persons in such permanent warrant officer grades in the Regular Army.

SEC. 106. (a) Original enlistments and reenlistments in the Women's Army Corps of the Regular Army, from among female persons who possess such qualifications as the Secretary of War may prescribe, may be accepted under applicable provisions of law which govern original enlistments and reenlistments in the Regular Army of male persons except as may be necessary to adapt said provisions to the Women's Army Corps of the Regular Army: *Provided*, That no person shall be enlisted in the Women's Army Corps of the Regular Army who has not attained the age of 18 years: *And provided further*, That no person under the age of 21 years shall be enlisted in such corps without the written consent of her parents or guardians, if any.

(b) The Secretary of War, under such regulations as he may prescribe, may terminate the enlistment of any enlisted woman in the Women's Army Corps, and each person whose enlistment is so terminated shall be discharged from the Army.

SEC. 107. Except as otherwise specifically provided, all laws now or hereafter applicable to male commissioned officers, warrant officers, and enlisted men of the Regular

Army; to former male commissioned officers, warrant officers, and enlisted men of the Regular Army; and to their dependents and beneficiaries, shall in like cases be applicable respectively, to commissioned officers, warrant officers, and enlisted women of the Women's Army Corps, Regular Army, to former commissioned officers, warrant officers, and enlisted women of the Women's Army Corps, Regular Army, and to their dependents and beneficiaries except as may be necessary to adapt said provisions to the Women's Army Corps: *Provided*, That the husbands of women officers and enlisted personnel of the Regular Army shall not be considered dependents unless they are in fact dependent on their wives for their chief support, and the children of such officers and enlisted personnel shall not be considered dependents unless their father is dead or they are in fact dependents on their mother for their chief support.

SEC. 108. Effective the date of enactment of this title, Public Law 281, Seventy-ninth Congress (approved December 28, 1945; 59 Stat. 663), as amended (Public Law 670, 79th Cong., and Public Law 61, 80th Cong.), is hereby further amended as follows:

(a) Section 4 of said act is amended by changing the period at the end of said section to a colon and adding after said colon the following: "*Provided*, That female citizens of the United States may be appointed as officers of the Women's Army Corps of the Regular Army under like conditions as those prescribed herein for appointment of male persons as officers in the Regular Army except that they may be appointed in the grades prescribed in section 5 of this act even though such grades be higher than those in which they served as officers in the Women's Army Corps of the Army of the United States."

(b) So much of section 5 of said act as reads "(a) Persons appointed in arms or services of the Regular Army, the officers of which are on the promotion list," is hereby amended to read: "(a) Persons appointed in arms or services of the Regular Army, the officers of which are on the promotion list, including persons appointed in the Women's Army Corps of the Regular Army."

SEC. 109. (a) Effective the date of enactment of this title, the appointment of women in the Officers' Reserve Corps of the Army of the United States and the enlistment of women in the Enlisted Reserve Corps of the Army of the United States shall be authorized.

(b) Except as otherwise specifically provided, all laws now or hereafter applicable to male commissioned officers and former commissioned officers of the Officers' Reserve Corps, to enlisted men and former enlisted men of the Enlisted Reserve Corps, and to their dependents and beneficiaries, shall in like cases be applicable, respectively, to female commissioned officers and former commissioned officers of the Officers' Reserve Corps, to enlisted women and former enlisted women of the Enlisted Reserve Corps, and to their dependents and beneficiaries, except as may be necessary to adapt said provisions to the Women's Army Corps in the Officers' and Enlisted Reserve Corps: *Provided*, That the husbands of women officers and enlisted personnel of any of the Reserve components of the Army of the United States shall not be considered dependents unless they are in fact dependent on their wives for their chief support, and the children of such personnel shall not be considered dependents unless their father is dead or they are in fact dependent on their mother for their chief support.

(c) Appointments of women in the Officers' Reserve Corps may be made by the President in grades from lieutenant colonel to second lieutenant, inclusive, from female citizens of the United States who have attained the age of 21 years and who possess such qualifica-

tions as may be prescribed by the Secretary of War: *Provided*, That any person who has served satisfactorily as the commanding officer (Director) of the Women's Army Corps established by act of July 1, 1943 (57 Stat. 371), or as the Director of the Women's Army Corps created by this title, may, if otherwise qualified, be appointed in such Reserve Corps in the grade of colonel: *And provided further* That women specialists (such as scientists and technical experts) who possess such qualifications as may be prescribed by the Secretary of War may be initially appointed in the Officers' Reserve Corps in such grades as may be prescribed by the Secretary of War in accordance with regulations prescribed by him.

(d) Enlistments of women in the Enlisted Reserve Corps may be accepted under the provisions of law now or hereafter applicable to enlistments of male persons in the Enlisted Reserve Corps, under such regulations, in such grades or ratings, and for such periods of time as may be prescribed by the Secretary of War.

(e) The President may form any or all female members of the Officers' Reserve Corps and the Enlisted Reserve Corps into such organizations and units as he may prescribe.

TITLE II

ENLISTMENT AND APPOINTMENT OF WOMEN IN THE REGULAR NAVY AND MARINE CORPS AND THE NAVAL AND MARINE CORPS RESERVE

SEC. 201. All laws or parts of laws which now or hereafter authorize enlistments in the Regular Navy and which now or hereafter authorize appointments of commissioned and warrant officers in the Regular Navy shall, subject to the provisions of this title, be construed to include authority to enlist and appoint women in the Regular Navy: *Provided*, That no woman shall be enlisted in the Regular Navy or Naval Reserve who has not attained the age of 18 years: *And provided further*, That no woman under the age of 21 years shall be enlisted in the Regular Navy or Naval Reserve without the written consent of her parents or guardians, if any.

SEC. 202. The number of enlisted women on the active list of the Regular Navy at any one time shall not exceed 2 percent of the enlisted strength now or hereafter authorized for the active list of the Regular Navy. The number of commissioned and warrant women officers on the active list of the Regular Navy at any one time shall not exceed 10 percent of the authorized number of enlisted women of the Regular Navy.

SEC. 203. Women commissioned in the Regular Navy under the provisions of this title shall not have permanent commissioned grade or rank on the active list of the Regular Navy above that of commander. The number of women officers on the active list of the line of the Regular Navy in the permanent grades of commander and lieutenant commander shall not exceed 10 percent and 20 percent, respectively, of the number of women officers on the active list of the line of the Regular Navy above commissioned warrant grade at any one time. Computations to determine such numbers shall be made as of January 1 of each year. Upon determining such numbers, the Secretary of the Navy may further determine the number, which may be a lesser number, of women officers on the active list of the line of the Regular Navy which may serve in each of such grades and the numbers so further determined shall be held and considered as the authorized numbers until subsequent computations and determinations are made. No woman officer of the Regular Navy shall be reduced in grade or pay, or be separated from the active list, as the result of any such computation or determination.

SEC. 204. All original appointments of women to commissioned grade or rank in the Regular Navy above the grade of commissioned warrant officer, other than appoint-

22 general bills dealing with the subject of immigration have been introduced. That does not include the numerous special bills dealing with specific cases. Among those 22 bills there are proposals to bar all immigration for a period of 5 years. There are two proposals of that nature. There are proposals to bar persons under certain circumstances such as while there is unemployment in this country to the extent of 1,000,000 persons. On the other side there are bills to lift the immigration restrictions as to certain aliens. Then there is the subject of displaced persons, which was first brought before the committee, as I recall, on July 2 of this month. So I say, Mr. President, that unless the resolution is adopted we will be very much handicapped in gaining information about the various bills dealing with the all-important subject of immigration in its different phases.

It has been stated by some individuals who have completely misunderstood the purpose of the resolution that Senate Resolution 137 is a delaying measure or would delay the consideration of proposals involving displaced persons. Nothing could be further from the truth. Nothing could be more misleading to the people than such an assertion. Such an assertion has never been made, so far as I know, by any Member of the Senate, but I know that an organization which operates throughout the country has told the people that Senate Resolution 137 would delay such action. That representation is misleading. I know that such misleading information has been spread broadcast by reason of the fact that there have come to the Members of the Senate telegrams stating that Senate Resolution 137 would delay consideration of the subject of displaced persons. I have received two or three such telegrams asking me not to favor the resolution. Any doubt existing in the minds of the people of the country that the resolution would cause delay should be removed. There have been open hearings held in the House of Representatives, which are now going on, upon a bill generally termed "the Stratton bill," which deals with the subject of displaced persons. The record of that hearing is still open. The subcommittee itself has not reported on the subject to the full committee.

The members of the Senate Committee on the Judiciary have gained some knowledge of the subject and have done the best they could with the staff at their command, but it is absolutely essential that to set up the special staff provided for by the resolution, so it can make inquiries during the interim between this session and the next session of Congress, or we will find ourselves in the very same situation we are in today.

I understand that there are proposals to make some changes and to submit some amendments to the resolution. It is proposed that the subject of displaced persons be taken up first, which is entirely satisfactory to me. A provision has been written into the resolution that a report must be made by March 1. It has been suggested to me by the Senator from Michigan that the date be changed to January 10 respecting dis-

placed persons. That is entirely agreeable to me and I have so stated. The amendments in question will be offered.

I make the statement at this time to call the attention of the Senate to the imperative need of the adoption of the resolution, if we are going to be advised upon the subject of immigration when the Congress reconvenes.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. REVERCOMB. I yield.

Mr. HATCH. Would this resolution give the Senate Judiciary Committee any power which is not already conferred on it by the Reorganization Act?

Mr. REVERCOMB. Absolutely none. It gives no additional power whatsoever, but it permits the establishment of a staff to carry on the work and expedite it.

The PRESIDENT pro tempore. The time of the Senator from West Virginia has expired.

Mr. BARKLEY. Mr. President, I wish to make a statement with reference to this situation, to explain why I am impelled to join in asking that the resolution go over.

As the Chair knows, and as the majority leader and others know, I reveal no confidence when I say that a week ago last Monday the President of the United States called together a conference of Members of both sides of the Senate and House on the question of displaced persons. We know that in Europe there are approximately 1,000,000 people who are designated as displaced persons. Most of them are still in concentration camps, not under the same circumstances which existed at the time of the occupation of the Hitler concentration camps, but they have been compelled to leave their homes and their countries.

Many of the countries of Europe have accepted a certain number of displaced persons. I think Belgium has accepted 100,000. I believe Great Britain has accepted 200,000, France probably 100,000, and other countries a certain number.

The President asked Congress to enact legislation permitting the admission of 400,000 displaced persons, over a period of years, to be charged in some respects to unused quotas from the various countries involved. I reveal no confidence—because the press has carried the statement—when I say that those present at the conference at the White House advised the President that there was no possibility of securing enactment at this session of the Congress of the recommendation which he made.

The suggestion was made by Members of the other body that a small joint committee, with a modest sum of money to pay their actual expenses, be created to visit Europe, to visit the camps, and visit the displaced persons in order to find out, in the first place, what their condition is, and in the second place, the type of people we might bring into this country if 400,000 were to be allowed to come in over a period of from 2 to 4 years. I believe that it would be better in the immediate future, to show our own good faith, to set up a small joint committee authorized—and even instructed, if necessary—to visit the camps in Europe, visit the environment of the displaced per-

sons, in order that they might report to the Congress and to the American people, first, whether we should admit them, and, in the second place, the type of people we would get if we were to admit them.

I have conferred with Members of the House, and I think there is a fair prospect that before we adjourn such a joint committee may be established, whose only duty it would be to investigate the environment of the displaced persons, as well as the persons themselves, and determine the desirability of permitting a certain number to come in, the committee to report at the next session of the Congress.

Mr. REVERCOMB. Mr. President, will the Senator yield for a question?

Mr. BARKLEY. I yield.

Mr. REVERCOMB. Does not the Senator know that a resolution similar to the one now on the calendar is pending in the House and is before the Committee on Rules of that body?

Mr. BARKLEY. I thank the Senator for that information. I did not know that. However, let me say in that connection that the resolution which we are now considering and the one in the House require an investigation of the entire immigration system, which goes far beyond the question of displaced persons. It goes beyond the emergency created by the situation with which we have been asked to deal.

I have no objection to an investigation, at the leisure of any committee, of the entire immigration situation and system. But the problem of displaced persons is an immediate, urgent problem. I believe that a joint committee of the two Houses ought to be created to deal with that subject and investigate and report its recommendations at the earliest possible date in the next session.

For that reason I dislike to have that problem tangled up with a general investigation of the entire immigration system, which may require a long time and may require the Senate and the House to deal not simply with an emergency, but with a long-time program of immigration.

Mr. REVERCOMB. I may say to the able Senator that he can remove from his mind any doubt on that subject. The resolution which is pending will be amended so that the first subject touched upon will be the subject of displaced persons. A report is required to be made not later than the 10th day of January next. So there is no question of delay on that score.

Mr. BARKLEY. That is an improvement; but I will say to the Senator from West Virginia that I believe this investigation ought to be made by a joint committee of the two Houses. I believe that on that committee there ought to be Members aside from the members of the judiciary committee, in order that there might be a cosmopolitan viewpoint of the entire problem, not because a committee has jurisdiction of immigration per se, but because it is a human problem. I believe that members of other committees ought to be included on such an investigating committee. I do not intend any reflection on the Judiciary Com-

mittee; but we must all pass upon this problem. We must approach it from the standpoint of a broad national, as well as humanitarian, problem; and I think it would be more satisfactory if the two Houses could form a small joint committee and give them a modest sum of money so that they could go in person to Europe. I believe that other Members of the Senate and House ought to be included, besides members of the committee dealing with the subject.

The PRESIDENT pro tempore. The time of the Senator from Kentucky has expired.

Mr. BARKLEY. Mr. President, I ask that the resolution go over.

The PRESIDENT pro tempore. The resolution will be passed over.

SALE OF TIMBER WITHIN TONGASS NATIONAL FOREST

The joint resolution (H. J. Res. 205) to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest was announced as next in order.

Mr. CHAVEZ. Let the joint resolution go over.

Mr. MAGNUSON. Mr. President, this is not the Senate joint resolution to which the Senator from New Mexico previously objected. It was my understanding that the Senator from New Mexico was in agreement with the House joint resolution.

Mr. CHAVEZ. Mr. President, I understand what is going on. This is House Joint Resolution 205, Calendar 596. That is the one I object to. It is a House joint resolution. I am not ready to have that measure considered at this particular time, until I am fully satisfied that it is the measure which is to be accepted, and that there will be no substitution for it. If the Senator can obtain unanimous consent to accept the House joint resolution, and can give assurances that Senate Joint Resolution 118, Calendar No. 446, will not be considered or substituted for it, I will withdraw my objection.

Mr. MAGNUSON. As I understand, Calendar No. 596, House Joint Resolution 205, which is before the Senate, is the House measure relating to the Tongass National Forest.

Mr. CHAVEZ. I know that.

Mr. MAGNUSON. I appreciate the Senator's attitude. I thought he was in favor of the House version.

Mr. CHAVEZ. I am in favor of the House version, but I do not want to take a chance, after giving my consent to the consideration of the joint resolution, that the Senate joint resolution will be substituted for it.

Mr. MAGNUSON. I do not know that any attempt will be made to substitute the Senate measure.

Mr. CHAVEZ. I am taking no chances.

Mr. O'MAHONEY. Mr. President, in order that there may be no misunderstanding, let me say that House Joint Resolution 205, Calendar No. 596, is identical with the measure which was introduced in the Senate and which was given prolonged consideration by the Senate Committee on Public Lands.

Upon the recommendation of the junior Senator from Utah [Mr. WAR-

KINS], who is chairman of the subcommittee on Indian Affairs, and upon the recommendation of numerous members of the Committee on Public Lands, several amendments were added to the Senate joint resolution. The joint resolution as amended, was reported favorably, and it is now upon the calendar. To pass House Joint Resolution 205 as it came to the Senate from the House would mean to reject all the amendments which were inserted in the Senate measure by the Senate Committee on Public Lands. Therefore it would be a repudiation of the action of the Senate Committee on Public Lands.

In order that the Senate may know the issue with which we are dealing, let me say that section 1 of both the House joint resolution and the Senate joint resolution defines the phrase "possessory rights." That means the possessory rights of the aborigines of Alaska, or, in other words, the Indians of Alaska. As defined by law now upon the statute books, it means possessory rights to land and to timber.

Section 2 of the joint resolution—

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. O'MAHONEY. Let me finish my statement in order that it may be perfectly plain. Section 2 authorizes the Secretary of Agriculture to sell timber on the unpatented, unappropriated lands of Alaska, notwithstanding these possessory rights.

Another provision authorizes the Secretary of the Interior to sell these lands, notwithstanding the possessory rights.

In other words, the House joint resolution and the joint resolution which the Senate first considered, provided that although the Congress of the United States, by law and by custom, had recognized certain possessory rights to timber and to land in the aboriginal inhabitants of Alaska, nevertheless officials of the Government were to be authorized to sell such lands and the timber without regard to those possessory rights. The Senate Committee on Public Lands was unwilling to deal fast and loose with the possessory rights of the Indians in Alaska thus recognized by law, and it inserted certain amendments designed to protect those possessory rights and to make certain that the lands upon which the Indians are living, on which they have their villages and their homes, should not be sold out from under them, but that the timber lands which they have possessed and which they may be using shall not be disposed of contrary to law. I believe, Mr. President, that the Senate Committee on Public Lands was absolutely right. We cannot afford idly to toss away the possessory rights of the Indians in Alaska which have been recognized by custom and by law.

I now yield to the Senator from Illinois.

Mr. MAGNUSON. Mr. President, I thought I had the floor.

Mr. O'MAHONEY. I was under that assumption myself.

Mr. CHAVEZ. And I thought I had objected.

The PRESIDENT pro tempore. The time of the Senator from Washington has expired.

Mr. MAGNUSON. My time has expired.

Mr. O'MAHONEY. Mr. President, I ask that the Senator from Washington may speak in my time.

Mr. MAGNUSON. I thank the Senator from Wyoming. I shall be glad to yield to the Senator from Illinois.

Mr. LUCAS. The only question I was going to ask was whether or not the Senate measure and the House measure used the same definition of possessory rights.

Mr. O'MAHONEY. They use exactly the same definition of possessory rights, but the amendments which have been inserted in the Senate joint resolution, and certain other amendments which I should like to propose, will, I think clear away the difficulty and will protect the Indians.

Mr. LUCAS. One other question: Is the Senate measure as reported by the committee now on the calendar?

Mr. O'MAHONEY. It is. It was passed over a little earlier in the day until we should come to the House joint resolution.

Mr. MAGNUSON. Mr. President, I want to make a brief statement. I appreciate that there has been a great deal of conflict regarding the possessory rights of the Indians as between the House and the Senate joint resolutions. I do not quite agree with the version of the House measure as stated by the Senator from Wyoming [Mr. O'MAHONEY]. As a matter of fact, there is not a Member of this body from the Pacific Northwest, including my colleague from Washington [Mr. CAIN] and the able Delegate from Alaska, who wants to pass any legislation which might interfere with the equitable possessory rights of the Indians. All of us, from the Secretary of the Interior to the Senators from Washington, the Washington delegation, the Delegate from Alaska, and many of the Indians, are in the position of trying to allow the sale of certain portions of the timber in the great forests in order that Alaska may have a substantial industry. That industry is the pulp and paper industry. Much of the timber is ripe. Many of the possessory rights of the Indians will never be exercised by them. The Indians will find some work in this industry when it is established. We all want to protect them.

I appreciate that there is a great deal of difference in the legal interpretation of the term "possessory rights." What we should like to do—and I am sure that my colleague will agree, as will the Delegate from Alaska, who is in the Chamber—is to sell the timber, protect the Indians, and give Alaska a needed pulp and paper industry. That is all it amounts to.

Many of the Indian lawyers downtown who have made their living for years off the Indians, want to justify their existence by telling their clients that they were always protecting their rights, and that they are objecting to this measure. But everyone concerned, in the Pacific Northwest and Alaska, including the Indians themselves, want to get this industry established. I hope we can come to some agreement. I appreciate the Senator's position with regard to the matter. My only hope was that we might pass the House joint resolution and accomplish something. That is the only posi-

tion of those who represent the Territory of Alaska.

The PRESIDENT pro tempore. The Senator's time has again expired.

Mr. CHAVEZ. Mr. President, for the moment I still object.

The PRESIDENT pro tempore. The resolution will be passed over.

BILL PASSED OVER

The bill (H. R. 1366) to facilitate procurement of supplies and services by the War and Navy Departments and for other purposes was announced as next in order.

Mr. GURNEY. Mr. President, I ask that the bill be temporarily passed over, until an interested Senator can return to the Chamber.

The PRESIDENT pro tempore. The bill will be passed over temporarily.

INVESTIGATION OF LAW ENFORCEMENT AND POLICE ADMINISTRATIONS IN THE DISTRICT OF COLUMBIA

The resolution (S. Res. 144) authorizing an investigation of law enforcement and police administration in the District of Columbia was announced as next in order.

Mr. LANGER. I object.

The PRESIDENT pro tempore. The resolution will be passed over.

Mr. McGRATH. Mr. President, if the Senator will withhold his objection I should like to make a brief statement of the resolution.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 5 minutes.

Mr. McGRATH. Mr. President, Senate resolution 144 proposes an appropriation of \$25,000 to make an investigation of law enforcement and police administration in the District of Columbia. It is before the Senate by unanimous vote of the Committee on the District of Columbia and by the unanimous vote of the Committee on Rules and Administration which considered it from the point of view of the appropriation which is proposed. The Committee on the District of Columbia is charged with a grave responsibility in connection with the administration of the departments of government in the District of Columbia. It has been a long time since there has been an adequate investigation looking into the affairs of the police administration of the District of Columbia. Recently all of us have seen sufficient evidence in the public press to arouse our suspicion that conditions might be better than they are. Certainly the Committee on the District of Columbia cannot hope to fulfill its duty unless it be given the means with which to fulfill it. We do not know what such an investigation might uncover. We rather hope that it will reintroduce a spirit of confidence into the people of the District of Columbia that the administration of their Police Department is adequate and efficient.

However, I do not think the Senate can hope to place the responsibility for law enforcement upon its own committee, and fail to give the committee the means which it unanimously feels it

should have at this time in order to serve adequately the people of the District of Columbia.

After all, Mr. President, the District of Columbia is the National Capital; and not only are we responsible for the life and well being of those who live here, but by your very presence we are inviting thousands upon thousands of our fellow citizens to come to this city every day, and they have a vital interest in the quality of law enforcement which is had here. It seems to me that it is our duty to make this investigation.

I wish to say to the Senators who have objected that those who have proposed this investigation have done so with no preconceived ideas. We are aiming at nothing except to reestablish confidence in the people of the District of Columbia and in the people of the United States, for that matter, that proper law enforcement will be provided in the District of Columbia.

The PRESIDENT pro tempore. The time of the Senator from Rhode Island has expired.

Objection having been made, the resolution is passed over.

INVESTIGATION OF THE SOCIAL-SECURITY PROGRAM

The resolution (S. Res. 141) authorizing an investigation of the social-security program was considered and agreed to, as follows:

Resolved, That the Committee on Finance, or any duly constituted subcommittee thereof, is authorized and directed to make a full and complete investigation of old-age and survivors insurance and all other aspects of the existing social-security program, particularly in respect to coverage, benefits, and taxes related thereto, for the purpose of assisting the Senate in dealing with legislation relating to social security hereafter originating in the House of Representatives under the requirement of the Constitution.

SEC. 2. For the purposes of this resolution, the Committee on Finance, or any duly constituted subcommittee thereof, is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of the Eightieth Congress, to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable.

SEC. 3. The committee is authorized to designate and appoint an Advisory Council to study, assist, consult with, and advise the Committee on Finance or its duly authorized subcommittee, and the committee is further authorized to designate and appoint such other officers, experts, or assistants as it deems necessary for the performance of the investigation directed by this resolution.

SEC. 4. The compensation of persons assisting the committee in the investigation directed by this resolution shall be fixed by the committee at such amounts or rates as the committee deems appropriate, but such amounts or rates shall not exceed the amounts or rates payable for comparable duties prescribed by the Classification Act of 1923, as amended.

SEC. 5. The committee or its duly constituted subcommittee is authorized, with the approval of the Committee on Rules and Administration, to request the use of the services, information, facilities, and personnel of

the departments and agencies in the executive branch of the Government in the performance of its duties under this resolution.

SEC. 6. The expenses of the committee under this resolution, which shall not exceed \$25,000 shall be paid out of the contingent fund of the Senate upon vouchers signed by the chairman.

INVESTIGATION OF NATIONAL DEFENSE PROGRAM—FURTHER INCREASE IN LIMIT OF EXPENDITURES

The resolution (S. Res. 145) further increasing the limit of expenditures in the investigation of the national defense program was considered and agreed to, as follows:

Resolved, That the limit of expenditures under Senate Resolution 71, Seventy-seventh Congress, first session, agreed to March 1, 1941, and resolutions supplemental thereto and amendatory thereof, including Senate Resolution 46, Eightieth Congress, first session, agreed to January 22, 1947 (relating to the investigation of the national defense program), is hereby increased by \$25,000.

INVESTIGATION OF OPERATIONS OF RECONSTRUCTION FINANCE CORPORATION AND SUBSIDIARIES

The resolution (S. Res. 132) to investigate the operations of the Reconstruction Finance Corporation and its subsidiaries was considered and agreed to, as follows:

Resolved, That the Senate Committee on Banking and Currency, or any duly authorized subcommittee thereof, is authorized and directed to conduct a full and complete inquiry into the operations of the Reconstruction Finance Corporation and its subsidiaries.

SEC. 2. The committee shall report its findings, together with its recommendations for such legislation as it may deem advisable, to the Senate at the earliest practicable date but not later than March 1, 1948.

SEC. 3. For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable, and is authorized, with the consent of the head of the department or agency concerned, to utilize the services, information, facilities, and personnel of any of the departments or agencies of the Government. The expenses of the committee under this resolution, which shall not exceed \$50,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

BILL PASSED OVER

The bill (H. R. 3343) to enable the Government of the United States more effectively to carry on its foreign relations by means of promotion of the interchanges of persons, knowledge, and skills between the people of the United States and other countries was announced as next in order.

Mr. TAFT. Let the bill be passed over.

The PRESIDENT pro tempore. The bill will be passed over.

FURTHER INCREASE IN EXPENDITURES OF COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 142) increasing the limit of expenditures by the Committee on Rules and Administration for the employment of temporary assistant and making certain expenditures was announced as next in order.

Mr. MORSE. Mr. President, may we have an explanation?

Mr. HATCH. Mr. President, I, also, would like to have an explanation.

Mr. JENNER. Mr. President, the resolution was unanimously reported by the Committee on Rules and Administration. The resolution calls for an increase of \$95,000 in the amount of the funds previously authorized, for the purpose of conducting investigations in connection with the election cases in the States of Maryland and West Virginia.

The budget in connection with the resolution provides for a staff of 12 investigators, 4 clerks and stenographers and 1 chief counsel. The resolution was unanimously approved by the committee.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That the limit of expenditures authorized under Senate Resolution 34, Eightieth Congress, agreed to January 17, 1947 (authorizing the expenditure of funds and the employment of assistants by the Committee on Rules and Administration in carrying out the duties imposed upon it by subsection (c) (1) (D) of rule XXV of the Standing Rules of the Senate), as increased by Senate Resolution 114, Eightieth Congress, agreed to May 21, 1947, is hereby further increased by \$95,000.

SALE OF PAXON FIELD, FLA.—BILL PASSED OVER

The bill (S. 1582) relating to the sale of Paxon Field, Duval County, Fla., was announced as next in order.

Mr. MORSE. Mr. President, may we have an explanation, please?

Mr. HOLLAND. Mr. President, Paxon Field is a small, supplemental airfield located outside the city of Jacksonville, Fla. One hundred seventy-three acres of land are involved—not nearly sufficient for permanent use as an airfield.

Before the war, the land belonged to the Farm Credit Administration. During the war the Navy Department was operating a large station close to Jacksonville, Fla., and it asked that a supplemental field be located on this land, for use in connection with the Jacksonville field.

This measure has been reported unanimously by the committee. It permits the sale of the land in question to the school authorities of Duval County, Fla., at 50 percent of the appraised value, for the purpose of enabling the location on the land of a kindergarten, elementary school, junior high school, junior college, and an administration building, together with recreational facilities, all of which will be erected by the school authorities.

I understand that this matter has received the approval of all Government authorities having anything to do with it, and I know that this area is badly needed for development for school purposes in the area of Jacksonville, where additional school facilities are badly needed at the present time.

Mr. MORSE. Mr. President, I have no doubt that there is need for it; but we have pending before various committees, bills providing for the disposition of other property, some of which is also sought by schools. For instance, I

may refer to the Fort Douglas area, at Salt Lake City, a portion of which is very much needed for the University of Utah. But the difficulty is that we are disposing of Federal property by a catch-as-catch-can procedure, and we have not reached any conclusion as to what the uniform policy should be. Of course there is danger that without such a uniform policy, these measures will be resolved into "pork barrel" propositions.

In these cases we are dealing with property belonging to all the people of the United States; and I think it is incumbent upon the Congress of the United States to reach some agreement as to a uniform policy applicable to all cases of the disposition of Federal property, so that one group will not get one parcel of land at 5 cents on the dollar, and another group at 50 percent of the appraised value.

Therefore, I object.

The PRESIDENT pro tempore. Objection being heard, the bill will be passed over.

Mr. HOLLAND. Mr. President, I should like to make a further brief statement.

The PRESIDENT pro tempore. Without objection, the Senator may do so. He has already made one statement.

Mr. HOLLAND. I should like to say that, as stated in the committee report, the disposal of this property at 50 percent of its appraised value would permit the United States Government to receive all the money which it paid originally for the purchase of the property.

The PRESIDENT pro tempore. Objection has been heard, and the bill is passed over.

The clerk will state the next measure on the calendar.

INCOME TAXES OF PRISONERS OF WAR AND INTERNEES

The bill (H. R. 3444) to amend section 251 of the Internal Revenue Code was considered, ordered to a third reading, read the third time, and passed.

ADDITIONAL RELIEF FOR NONPROCESSING SLAUGHTERERS

The bill (S. 1429) to amend Public Law 88, Seventy-ninth Congress, approved June 23, 1945, was announced as next in order.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. WHERRY. Mr. President, may we have an explanation of the bill.

Mr. McCARTHY. Mr. President, this bill deals with the subsidies paid to non-processing slaughterers of cattle. The Office of Economic Stabilization established certain rules and regulations for the interpretation of the Subsidy Act, providing that slaughterers would be paid a subsidy under certain conditions if they bought the cattle at the farm, slaughtered it for meat, and sold the meat nonprocessed. A number of slaughterers felt that the interpretation was discriminatory and not proper.

At a later date the Office of Economic Stabilization was convinced that the objecting slaughterers were right, and thereupon amended the rules so as to

bring these certain slaughterers under the program, which was designed to increase the production of beef. But they failed to make their action retroactive.

Mr. WHERRY. Does the Senator mean it brought them under Federal inspection or State inspection?

Mr. McCARTHY. No; it brought them under the rules which allow them to collect a subsidy. In other words, the slaughterer paid the farmers so much for a cow, and if he wanted to sell it at the ceiling placed upon meat, it was decided he had to have a subsidy or he would be losing money, and consequently would quit buying from the farmer.

Mr. WHERRY. What does the bill accomplish?

Mr. McCARTHY. The Office of Economic Stabilization finally acceded to the demands of the slaughterers and changed the rules to what they considered to be fair rules. However, in doing that they did not make the rules retroactive to the date of the original rule.

Mr. GURNEY. Mr. President, will the Senator yield for a moment?

Mr. McCARTHY. I yield.

Mr. GURNEY. Due to the fact that the members of the Committee on Armed Services must go to a conference considering the unification bill, and there are bills on the calendar reported from that committee, if there is no one here to explain the bills they may be temporarily passed over so that they may be explained later in the afternoon.

Mr. ROBERTSON of Virginia. Mr. President, if the Senator will yield, I shall be glad to tell him that our committee went rather fully into this matter. In just two instances, one in California and one in Florida, has question arisen over the beef subsidy, growing out of the question whether or not the slaughterhouse had slaughtered for others or slaughtered its own cattle.

The testimony before us was to the effect that there was a technicality, and a different ruling adopted subsequently, under which the two slaughterhouses referred to, one in California and one in Florida, would have qualified for the subsidy, but they had been in business a few months prior to the change in the ruling, and that eliminated them. Our committee was unanimous in the feeling that justice dictated that two slaughterhouses which had made their full contribution to the war effort, and had given to the war effort their entire output, should be treated on a par with the other slaughterhouses.

Mr. CORDON. Mr. President, will the Senator yield?

Mr. ROBERTSON of Virginia. I yield.

Mr. CORDON. Is this one of the cases where there would have to be specific legislation so that the door would not be open thereafter for some administrative officer to determine there were 9, 12, or 2,000 who could come within the classification for reasons different from those which exist in the two cases?

Mr. ROBERTSON of Virginia. We went into that, and have been assured that, so far as anybody knew, so far as any claim has been presented, there are only two cases. It is my recollection we amended the Pepper bill to include the

Committee (p. 10368).

35. PURCHASING. S. 1728, by Sen. Aiken, Vt., for the more economical operation of the general supply fund of the Bureau of Federal Supply; to Expenditures in the Executive Departments Committee (p. 10368).
36. POULTRY. S. J. Res. 154, by Sen. Baldwin, Conn., to authorize issuance of a special series of stamps commemorating the 100th anniversary of the poultry business in the U. S.; to Civil Service Committee (p. 10368).
37. EXPORT CONTROLS. S. Res. 158, by Sen. Thomas, Okla., to direct the Agriculture and Forestry Committee to investigate administration of export controls on agricultural commodities by the Commerce Department; to Agriculture and Forestry Committee (p. 10369, where resolution is printed in full).
38. SMALL BUSINESS. S. 1740, by Sen. Murray, Mont., providing for a permanent Federal Small Business Corporation; to Banking and Currency Committee. Remarks of author. (p. 10435.)
39. LEGISLATIVE REFERENCE. H. R. 4389, by Rep. Corbett, Pa., to amend the Legislative Reorganization Act so as to relieve the Legislative Reference Service of preparation of data in certain cases. To House Administration Committee. (p. 10357.)
40. PERSONNEL RETIREMENT. H. R. 4397, by Rep. Lenke, N. Dak., to equalize the retirement benefits payable to Federal employees; to Post Office and Civil Service Committee (p. 10357).
41. PRICE CONTROL. H. J. Res. 253, to reestablish effective price and rent control; to Banking and Currency Committee (p. 10357).

ITEMS IN APPENDIX - July 25

42. ST. LAWRENCE WATERWAY. Sen. Aiken, Vt., inserted a radio interview with Sen. Wiley on this proposed project (pp. A4061-2).
43. COOPERATIVES. Rep. Batman, Tex., inserted his address defending cooperatives against current criticisms (pp. A4063-6).
44. SOIL CONSERVATION. Sen. Stewart, Tenn., inserted a Farm Bureau summary of H. R. 4150, H. R. 4151, and S. 1621, to divide SCS functions between ARA and Extension Service (pp. A4067-8).
45. AGRICULTURAL APPROPRIATIONS. Extension of remarks of Rep. Bennett, Mo., defending congressional reductions in USDA appropriations (pp. A4083-5).
46. CONGRESSIONAL REORGANIZATION. Extension of remarks of Rep. Kefauver, Tenn., favoring additional changes in congressional organization, etc. (pp. A4086-7).
47. FLOOD CONTROL. Extension of remarks of Rep. Banta, Mo., criticizing administration of the flood-control program and urging more coordination of the various participating agencies (pp. A4087-8).
48. POULTRY. Extension of remarks of Rep. Boggs, Del., commending development of the poultry industry in the U. S. (p. A4092).

SENATE - July 26

49. APPROPRIATIONS. Agreed to the second conference report on H. R. 3601, the agricultural appropriation bill, and concurred in the House amendment to the Senate amendment regarding the school-lunch program (pp. 10486-9). This bill will now be sent to the President.

Both Houses agreed to a revised conference report on H. R. 3756, the Government corporations appropriation bill, which, in addition to provisions of the first version of the conference report, eliminates Sec. 307 of the bill, regarding additional corporation controls (pp. 10522-6, 10528, 10577-9). This bill will now be sent to the President.

Both Houses agreed to the conference report on H. R. 4269, the first supplemental appropriation bill, 1948 (pp. 10539-49, 10604-5). This bill will now be sent to the President. The conferees agreed to \$75,000 for the Insecticide, Fungicide, and Rodenticide Act, \$17,500 for the BAI animal-husbandry item, \$600,000,000 for government and relief in the occupied areas, a provision expressing congressional opinion that expenditures for food stuffs should be for those items which can be purchased with benefit to the national economy, and \$210,000 for Sugar Rationing Administration.

Passed with amendments H. R. 4347, the second supplemental appropriation bill, and both Houses agreed to the conference report (pp. 10460-1, 10480-6, 10571, 10587-93, 10630-1). This bill will now be sent to the President. The Senate inserted \$500,000 to continue the Remount Service in the War Department temporarily, and the conferees agreed to \$350,000 for this purpose (p. 10483). The Senate inserted \$15,000 for E&PQ insect investigations, and the conferees agreed to \$5,000 for this item (p. 10482). The Senate increased the item for the Commission on Organization of the Executive Branch from \$500,000 to \$1,000,000, and the conferees agreed to \$750,000 (p. 10481).

Sens. Lucas, Ill., and Myers, Pa., discussed appropriation reductions and the history of the Legislative Budget, criticizing the manner of effectuating this provision (pp. 10504-10, 10518-19).

The "Daily Digest" includes a statement showing the amounts in the various appropriation bills in their different legislative stages (p. D616).

50. CROP INSURANCE. Both Houses agreed to the conference report on S. 1326, to limit the crop-insurance program to essentially an experimental basis (pp. 10478-9, 10580-1). This bill will now be sent to the President. The conference bill authorizes wheat insurance in 56 counties, corn and flax insurance in 50 counties each, and tobacco insurance in 35 counties; includes the Senate provision regarding reconstitution of the board of directors of ECIC, the Senate provision regarding suits against ECIC and by it, and the Senate limitation on reinsurance.

51. MARKETING AGREEMENTS. Passed without amendment H. R. 452, to make various amendments to the Agricultural Marketing Agreement Act (pp. 10463-4). This bill will now be sent to the President.

52. FORESTS. The "Daily Digest" states that H. J. Res. 205, to authorize sale of timber in the Tongass National Forest in such a way as to facilitate pulp production in Alaska, was passed (p. D612); however, the Congressional Record itself does not show this action, since it went to press before the Senate adjourned.

Passed without amendment H. R. 3395, to add certain lands to the Modoc National Forest, Calif. (p. 10467). This bill will now be sent to the President.

Daily Digest

HIGHLIGHTS

Both Houses cleared many bills for President and adjourned the session.
See Appropriation Table.

Senate

Chamber Action

Routine Proceedings, pages 10456-10460

Bills Introduced: Fifteen bills and six resolutions were introduced, as follows: S. 1742-S. 1756; S. J. Res. 156; S. Con Res. 32-34; and S. Res. 161-162.

Pages 10456-10457

Bills referred: The following House-passed bills were referred to committees indicated: H. R. 1650 and 4177 (Committee on the Judiciary); H. R. 2029 and 4160 (Committee on Finance); H. R. 2993, and 4186 (Committee on Armed Services); H. R. 4068 (Committee on Public Works); H. R. 4070 (Committee on Foreign Relations); H. R. 4115 (Committee on Public Lands); and H. J. Res. 246 (Committee on Civil Service). (For passage in House, see Digest, pp. D607 and 608.)

Pages 10457-10458

National Defense: S. Res. 160, permitting the Special Committee to Investigate the National Defense Program to make reports during the recess, was passed.

Bills Passed: On call of the Calendar, 50 bills were passed as follows:

Pacific: H. J. Res. 232, U. S. participation in the South Pacific Commission;

Revenue: H. R. 3613, removing certain tax features in cases of bond transfers, stock loans, and stamp taxes;

Small Business: S. Res. 153, to continue and provide \$50,000 for Small Business Committee;

Agriculture Legislation: S. Res. 147, to provide \$15,000 for Committee on Agriculture and Forestry to study agricultural problems and trends;

Prices: S. Con. Res. 19, to provide \$25,000 for the Joint

Committee on Economic Report for two of its subcommittees to study prices of consumer goods;

Marketing Agreements: H. R. 452, amending AAA relating to marketing agreements and orders;

Agriculture: H. R. 4110, amending title 1 of Bankhead-Jones Act, relative to land-grant colleges;

Peanuts: H. R. 4124, amending AAA relative to peanut quotas;

Patents: H. R. 4070, effectuating treaties with Italy, Bulgaria, Hungary, and Rumania, relating to patents;

Bankruptcy Referees: H. R. 1810, to enable part-time referees in bankruptcy to act as attorneys against U. S.;

Hawaii: S. 1696, extend district court jurisdiction of Hawaii;

Fountain: S. J. Res. 110, to relocate McMillan Fountain;

Bridge: S. 1529, bridge across Ohio at Shawneetown, Ill.;

Supplies: H. R. 4010, International Organizations Procurement Act of 1947;

Oregon: S. 1564, to authorize issuance of stamps to commemorate movement to Oregon country;

Indians: The following bills relating to Indians: H. R. 3325, S. 1133, and H. R. 2793;

Lands: The following bills relating to public lands: H. R. 3874, 3395, 3064, 3696, and S. 1551;

Bridge: H. R. 3332, creating the St. Lawrence Bridge Commission;

Panama: H. R. 1260, to amend the Panama Canal Zone Act;

Bridge: H. R. 4140, bridge bill relative to Delaware River Joint Toll Bridge Commission;

Interstate Commerce Committee: S. Res. 156, increasing by \$25,000 the limit of expenditures for Committee on Interstate and Foreign Commerce;

Reading, Pa.: H. J. Res. 218, providing for observance of founding of Reading, Pa.;

Sports: S. 1302, to aid youth in athletic and sports program by making surplus products available;

Medals: H. R. 4308, relative to acceptance of decorations, medals, etc.;

Kitchen Cars: S. 1632, to transfer railway kitchen cars to War Dept.;

Khorassan: S. 468, relative to Dramatic Order Knights of Khorassan;

Torts: H. R. 3690, to amend Federal Tort Claims Act;

Unemployment Fund: H. R. 3632, to extend time for applications to Railroad Retirement Board for refunds from Unemployment Trust Fund;

D. C. Hospital: H. R. 3870, to authorize expenditures by St. Elizabeths Hospital;

Schools: H. R. 3682, to extend period providing assistance to war-incurred school enrollments;

Information: S. Con. Res. 29, creating a joint committee to investigate the Voice of America.

Claims: The following private claims bills: H. R. 1492, 2811, 1736, 3845, 1085, 1316, 618, S. 641, 1235, H. R. 1730, 1534, S. 1431, H. R. 890;

Of the above House-passed bills, the following 29 bills were cleared for the White House: H. R. 3845, 1810, 1085, 1316, 618, 4070, 3395, 452, 4110, 4124, 2811, 1736, 3874, 4010, 1730, 1534, 3064, 3325, 3696, 2793, 3332, 1260, 4308, 890, 3632, 3682, 3613, 1492, and H. J. Res. 218.

Pages 10461-10480

Second Supplemental: H. R. 4347, second supplemental appropriations bill, carrying a total of \$112,334,000, was passed. An amendment by Senator Gurney, granting \$500,000 for the Remount Service, was adopted, as were amendments by Senator Ball granting increased authorization for the Maritime Commission, and by Senator Dworshak adding \$12,000 for D. C. Recorder of Deeds. A conference was asked of the House, and the following conferees appointed: Senators Ball, Brooks, Ferguson, Cordon, McKellar, Hayden, and Tydings.

Pages 10480-10486

Housing: Senate receded from its amendment to H. Con. Res. 104, creating a joint committee to investigate entire housing field.

Page 10501

Inter-American: H. R. 4168, Institute of Inter-American Affairs, was passed by voice vote, and cleared for President.

Page 10461

FDIC: House amendment to S. 1070, to provide for cancellation of capital stock of FDIC, was concurred in and cleared for President.

Page 10458

Disbursing Officers: House amendments to S. 907, relative to unfilled regional disbursing offices of the Treasury Dept., were concurred in, clearing bill for President.

Page 10458

Immigration: S. Res. 137, authorizing an investigation of immigration by Committee on the Judiciary, was

passed by voice vote after adoption of clarifying amendments.

Pages 10486, 10489-10499, 10513-10517

Minerals: H. R. 1602, authorizing RFC to make subsidy payments on certain minerals, was passed by voice vote after defeat of an amendment by Senator Bricker on settlement of wartime contracts.

Pages 10520-10522, 10605-10608

Conference Reports: Conference reports on the following bills were adopted, clearing them for the President:

Crop Insurance: S. 1326, Federal Crop Insurance Act;

Agriculture Appropriation: H. R. 3601, Agriculture Department appropriation;

Deeds Recorder: H. R. 3045, placing Recorder of Deeds under direction of D. C. Commissioners;

Alcoholics: H. R. 2659, establishing a clinic for chronic alcoholism cases in D. C.;

Undertakers: H. R. 2173, licensing of undertakers and embalmers in D. C.;

Govt. Corporations: H. R. 3756, Government Corporations appropriation bills;

Appropriations: H. R. 4269, supplemental appropriations bill, 1948;

Mail: H. R. 2857, to extend second-class mailing privilege to State conservation bulletins; and

Civil Functions Appropriation: H. R. 4002, Civil Functions appropriation bill.

Pages 10478-10479, 10486-10489, 10510-10511, 10522-10526, 10604, 10617-10618, 10631-10635

Veterans: Senate passed and cleared for President H. R. 3308, to increase minimum allowances for service-connected cases.

Page 10645

Voice of America: S. Res. 161, to authorize Committee on Foreign Relations to investigate State Department activities to acquaint foreign peoples with the United States (to replace S. Con. Res. 29, which the House did not pass).

Page 10646

Promotion: H. R. 3830, regulating promotions in the Army, Navy, and Air Force, was passed after approval of committee amendments en bloc, and two clarifying amendments offered by Senators Baldwin and Gurney.

Pages 10608-10630

Printing: H. Con. Res. 107, authorizing printing of additional copies of House Ways and Means Committee tax revision hearings, was passed.

Page 10631

UN: House amendments to S. J. Res. 144, UN site, were concurred in and cleared for President.

Pages 10639-10642

Puerto Rico: H. R. 3309, amending the Organic Act of Puerto Rico, was passed.

Pages 10631, 10644

Additional Bills Passed: On motion of Senator Taft the following bills were taken from the Calendar, passed, and cleared for President (except H. R. 1426):

H. R. 3862, authorize conveyance of land in Pa.;

H. J. Res. 205, authorizing sale of timber within Tongass National Forest;

DIGEST OF

CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports
(For Department staff only)

Issued July 29, 1947
For actions of July 27, 1947
80th-1st, No. 146
Cong. Record- July 28, 1947

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SENATE

1. FOREST LANDS. Passed without amendment H.J.Res. 205, to authorize sale of timber in the Tongass National Forest, Alaska, in such a way as to facilitate pulp production in Alaska (p. 10651). This bill will now be sent to the President.
2. PERSONNEL. Passed with amendments H.R. 1426, to extend veterans' preference benefits to widowed mothers of certain ex-servicemen and ex-servicewomen (pp. 10652-3).
3. NATURAL RESOURCES. Sen. Malone, Nev., inserted a preliminary statement of the work done by the National Resources Economic Committee, a subcommittee of the Public Lands Committee (pp. 10653-6).
4. APPOINTMENTS. On motion of Sen. Taft, Ohio, it was ordered that the President pro tempore be authorized to make appointments to commissions or committees during recess (p. 10653).
5. SOCIAL SECURITY. Sen. Murray, Mont., urged committee action on his bill to expand the old-age and survivors insurance benefits under the Social Security Act and explained the provisions of the bill (pp. 10656-62).
6. NOMINATIONS. Confirmed the nomination of James V. Forrestal to be Secretary of Defense and of Philip B. Perlman to be Solicitor General (pp. 10662-82).
7. ADJOURNED in accordance with the provisions of S.Con.Res. 33 (p. 10683).

ITEMS IN APPENDIX

8. SCHOOL-LUNCH PROGRAM. Sen. Malone, Nev., inserted an outline of the

work of the National Congress of Parents and Teachers, consisting of excerpts of reports, tables, etc., pointing to the need for the school-lunch program (pp. A4165-7).

9. WOOL PRICE SUPPORTS. Speech in the House by Rep. Sabath, Ill., opposing the wool bill because of "additional costs and burdens upon the American consumer" (pp. A4195-6).
Speech in the House by Rep. Fisher, Tex., explaining the effects of the wool price-support bill (p. A4300).
10. ELECTRIFICATION. Sen. Hill, Ala., inserted an Ala. Electric Cooperative, Inc., letter to C.R. Wickard as REA Administrator, relative to the REA loan to that cooperative (pp. A4156-7).
11. MONOPOLIES. Sen. Taylor, Idaho, inserted a Railroad Trainmen article, "Monopoly—Concentration of Monopoly Power in America Now at Its Peak" (pp. A4157-8).
Rep. Kefauver, Tenn., inserted a Washington Post article criticizing congressional action relative to monopolies (pp. A4266-7).
12. RESEARCH. Sen. Martin, Pa., inserted an American Council of Commercial Laboratories statement on the importance of independent testing, research, and inspection laboratories (p. A4167).
Extension of remarks of Rep. Combs, Tex., explaining his bill, H.R. 4356, providing for a Federal Research Agency for determining explosive hazards of fertilizers, agricultural material, dusts, etc. (pp. A4181-2).
Speech in the House by Rep. Wolverton, N.J., favoring the National Science Foundation Act (p. A4194).
Extension of remarks of Rep. Dirksen, Ill., explaining the provision in the agricultural appropriation for agricultural research in Alaska (pp. A4241-2).
13. LATIN AMERICA. Speech in the House by Rep. Ploeser, Mo., asking the intent of State Department relative to Inter-American corporations (p. A4169).
14. SMALL BUSINESS. Extension of remarks of Rep. Blatnik, Minn., discussing the problems of small business (pp. A4170-2).
15. LEGISLATIVE PROGRAM. Speeches in the House by Reps. Bennett (Mo.), Harless (Ariz.), Douglas (Calif.), Landis (Ind.), and Gamble (N.Y.) pointing out the accomplishments during the first session of the 80th Congress (pp. A4174-7, A4187-9, A4243-8, A4250-2, A4302-3).
16. FARM LABOR. Extension of remarks of Rep. Owens, Ill., calling attention to the possibility of obtaining farm workers from Europe but suggesting a very careful screening of such workers (pp. A4177-8).
17. R.F.C. LOANS. Extension of remarks of Rep. MacKinnon, Minn., favoring modification of veterans on-the-job-training limits and RFC purchase of GI home loans (pp. A4184-5).
18. RECLAMATION. Extension of remarks of Rep. Murdock, Ariz., commending congressional action on H.R. 1597, the Gila reclamation project bill (p. A4185).
Sen. Taylor, Idaho, inserted an Idaho Sun editorial pointing out the need for a Central valley authority (pp. A4211-2).
Sen. Murray, Mont., inserted Louis Bronfield's statement on the value of reclamation work (pp. A4303-4).
19. FEDERAL AID TO EDUCATION. Rep. McCowen, Ohio, inserted his committee report on bills providing for Federal aid for education (pp. A4197-9).



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Senate

(Legislative day of Wednesday, July 16, 1947)

NOTICE

The last issue of the daily Congressional Record for the first session of the Eightieth Congress will be published not later than Friday, August 15, 1947. It is requested that copy and proofs of speeches withheld for revision, or extensions of remarks as authorized by either House, be placed in the hands of the Public Printer before that date, so as to insure their insertion in the permanent edition of the Record.

By order of the Joint Committee on Printing.

WILLIAM E. JENNER, Chairman.

(Continuation of Senate proceedings of Saturday, July 26, 1947, from 12:50 a. m. on Sunday, July 27, 1947.)

GRANT TO MONTGOMERY COUNTY, PA., OF CERTAIN LAND

Mr. TAFT. Mr. President, I ask for the present consideration of House bill 3862.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the bill (H. R. 3862) to authorize the Federal Works Administrator to grant and convey to Montgomery County, Pa., a certain parcel of land of the United States in Norristown Borough, Montgomery County, Pa., for the purpose of erecting an additional annex to the present courthouse was considered, ordered to a third reading, read the third time, and passed.

SALE OF TIMBER WITHIN THE TONGASS NATIONAL FOREST

Mr. TAFT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 205, Calendar 596.

The PRESIDENT pro tempore. Is there objection?

Mr. WATKINS. Mr. President, I am chairman of the subcommittee which has been considering that question. I have great doubt as to the constitutionality of the measure, but I shall not make a

formal objection. We wanted to protect the rights of the Indians by adoption of proper amendments. Others have passed on those amendments. They think I am wrong, and for the purpose of accomplishing the building of a great pulp industry in the Territory of Alaska, I am not going to file an objection at this time, but permit the measure to be acted upon.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H. J. Res. 205) to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest was considered, ordered to a third reading, read the third time, and passed.

Mr. BUTLER subsequently said: Mr. President, I ask unanimous consent to have printed in the RECORD following the passage of the Tongass Forest bill a few moments ago several telegrams from Alaska.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

KETCHIKAN, ALASKA, July 11, 1947.

Hon. HUGH BUTLER,
Chairman, Public Lands Committee,
Washington, D. C.:

We strongly urge that Senate Joint Resolution 118 or House Joint Resolution 205 as reported out of committee be enacted into law. We feel that future welfare of

Alaska will be adversely affected unless this resolution is passed in toto.

MAYOR WANO HENRICKSON,
Juneau, Alaska.

MAYOR CARL VELVSTAD,
Petersburg, Alaska.

MAYOR DORIS M. BARNES,
Wrangell, Alaska.

MAYOR ROBERT E. ELLIS,
Ketchikan, Alaska.

JUNEAU, ALASKA, July 17, 1947.

Hon. HUGH BUTLER,
Chairman, Committee on Public Lands,
United States Senate,
Washington, D. C.:

Reference Indian statement, page 8740, CONGRESSIONAL RECORD, July 10, our opinion no points raised are based on facts and comments on paragraphs following: (1) Circuit court of appeals has ruled that Indians possess individual rights but no aboriginal tribal rights and all individual and Government agencies recognize these individual rights without question to lands which are actually used by these Indians but no tribal rights have ever been recognized as these Indians were not organized in tribes, but into clans within each race or large family group. Under Senate Joint Resolution 118 these individual rights will receive full protection. Hearings Department of Interior held were for purpose of determining whether Indians had possessory right, and results indeterminate until Secretary Ickes arbitrarily made determination not in accordance with facts brought out in hearings: (2) no encroachment on private property involved as all Indian property will be scrupulously protected; (3) circuit court of appeals has ruled that no aboriginal rights exist and this decision superior to that of Mr. Ickes; (4) pulp companies interested in entering Alaskan field have stated they feel House Joint Resolution 205 as passed by House would give ample protection; (5) circuit court of appeals decision based on treaty cession with Russia and should be fairly conclusive as to Government protection as we must depend on our courts for determination of rights under Constitution; (6) no fair play is involved and any recognition of Indian rights not based on court decisions would be giving valuable rights to one group of full citizens at expense of all other citizens as these extensive lands under consideration have never been recognized as Indian owned; (7) these lands have never contributed to Indian livelihood except for hunting and berry picking by individuals and these privileges are enjoyed by all citizens which includes Indians. Pulp development would provide opportunity for

long-season work, 10 months or more per year, for Indians along with whites and make them much more self-sustaining than any reservation idea possibly could. Indians here enjoy all rights enjoyed by whites and will continue to do so. Pulp sales will provide only means for Indians to become self-supporting through own efforts and do much to remove inferiority of race in economic struggle as fishing is short-seasonal occupation and gradually producing less income for them. Estimated 25,000,000,000 feet of timber on 1,600,000 acres under consideration. Curry's representation shown CONGRESSIONAL RECORD, July 10, that he represents town of Juneau is misleading. He does not represent town of Juneau and we are fairly certain he does not represent any organization in Alaska except perhaps some Indian group. Please insert this telegram in CONGRESSIONAL RECORD.

JUNEAU CHAMBER OF COMMERCE.

MATANUSKA VALLEY

CHAMBER OF COMMERCE.

Palmer, Alaska, June 25, 1947.

The Honorable HUGH BUTLER,

Chairman, Senate Public

Lands Committee,

Washington, D. C.

DEAR SIR: The Matanuska Valley Chamber of Commerce endorses, unanimously, House Joint Resolution 205, which authorizes the Secretary of Agriculture to sell timber within the Tongass National Forest.

We feel that this bill, if passed, will have great influence on the future development of Alaska.

Very truly yours,

ZOLA M. FINEMAN,

Secretary, Matanuska Valley

Chamber of Commerce.

ANCHORAGE, ALASKA, July 9, 1947.

Hon. HUGH BUTLER,

Chairman, Senate Public

Lands Committee,

Washington, D. C.:

Contemplated pulp industry very important to development of Alaska. Intensive efforts being made to interest potential investors this industry. Possessory rights could be stumbling block and set back development program many years. We believe House Joint Resolution 205 best available interim legislation, and respectfully urge favorable action before adjournment of Congress.

FRED AXFORD,

President, Anchorage Chamber of Commerce.

WRANGELL CHAMBER OF COMMERCE,

Wrangell, Alaska, June 26, 1947.

The Honorable HUGH BUTLER,

Chairman, Senate Public

Lands Committee,

Washington, D. C.

DEAR MR. BUTLER: This letter is to record with your committee our unanimous approval of Senate Joint Resolution 118.

We believe early adoption of this resolution necessary if pulp and paper industry is to be brought into southeast Alaska.

Yours very truly,

W. L. EASTAUGH,

Secretary.

The PRESIDENT pro tempore. Without objection, the identical Senate measure, Senate Joint Resolution 118, will be indefinitely postponed.

EXTENSION OF VETERANS' PREFERENCE BENEFITS TO WIDOWED MOTHERS OF CERTAIN EX-SERVICEMEN

Mr. TAFT. Mr. President, I ask unanimous consent for the present consideration of House bill 1426, Calendar No. 701.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 1426) to extend veterans' preference benefits to widowed mothers of certain ex-servicemen.

Mr. TAFT. Mr. President, this is a bill sponsored by the Senator from Maryland [Mr. TYDINGS], which was objected to by the Senator from Minnesota [Mr. BALL], who has withdrawn his objection.

Mr. TYDINGS. Mr. President, there is an amendment to the bill on the desk, which I ask to have acted upon.

Mr. TAFT. Mr. President, I warn the Senator that if an amendment is put on the House bill it will not be passed by the House of Representatives.

Mr. TYDINGS. The bill ought not to be passed without the amendment, because it will draw a discrimination between women who have lost their only sons and others.

Mr. TAFT. I do not mind the bill being passed with the amendment, if the Senator wishes it, but I asked that only House bills be considered because I did not think the House would pass on any amendments at the present time.

Mr. TYDINGS. I understand they will consider my amendment, and in view of the fact that it is not my fault that the bill comes up for action at this time, at this late hour, I shall insist upon action upon my amendment.

The PRESIDENT pro tempore. There are a number of amendments. Does the Senator wish to have them considered as one amendment?

Mr. TYDINGS. Yes.

The PRESIDENT pro tempore. The amendments will be stated.

The LEGISLATIVE CLERK. On page 1, line 5, it is proposed to strike out the second "and."

On page 2, line 3, it is proposed to strike out the semicolon and insert a comma.

On page 2, line 7, after the word "conditions", it is proposed to insert a semicolon and the following: "and (6) a mother of a deceased ex-serviceman or ex-servicewoman who lost his or her life while on active duty in any branch of the armed forces of the United States during any war, or in any campaign or expedition (for which a campaign badge has been authorized) or of a service-connected permanently and totally disabled ex-serviceman or ex-servicewoman, if (A) said ex-servicemen or ex-servicewoman was separated from such armed forces under honorable conditions, (B) the mother was divorced or legally separated from the father of such ex-serviceman son or ex-servicewoman daughter, and (C) said ex-serviceman son or ex-servicewoman daughter is the only child of said mother."

On page 2, line 11, strike out "and (5)" and insert in lieu thereof "(5) and (6)."

On page 2, line 14, strike out "and (5)" and insert in lieu thereof "(5) and (6)."

The PRESIDENT pro tempore. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. TYDINGS. Mr. President, this bill is the same as Calendar No. 506, Senate bill 416. I therefore ask that the House bill be amended by striking out all after the enacting clause and substituting the language of Senate bill 416, as reported from the committee with

amendments, plus the amendment which I have offered to the House bill.

Mr. TAFT. Mr. President, the order number which I asked to take up was the House bill. It was not the Senate bill. It was Calendar No. 701, House bill 1426.

Mr. TYDINGS. Mr. President, that was not the bill to which the Senator from Minnesota objected. The bill to which the Senator from Minnesota objected was another calendar number, and that is the reason for the confusion. The Senator said he was taking up the bill to which the Senator from Minnesota had objected, but that the Senator from Minnesota had withdrawn his objection.

Mr. TAFT. That is correct.

Mr. TYDINGS. I have no objection to the House bill being returned to the House with the suggested amendments.

Mr. TAFT. Mr. President, we shall have to send to the House the proper bill. What is that bill?

Mr. TYDINGS. There are two identical bills, Calendar No. 506, Senate bill 416, being identical with Calendar No. 701, House bill 1426.

Mr. TAFT. My original request was with respect to Calendar 701, House bill 1426. It was the House bill which I sought to take up. That is the bill which has been before the Senate at all times.

Mr. TYDINGS. Then I offer my amendment to that bill, which will make it all right.

The PRESIDENT pro tempore. Without objection, House bill 1426 is amended as indicated.

The amendment offered by the Senator from Maryland will be stated.

The LEGISLATIVE CLERK. It is proposed to strike out all after the enacting clause and to insert:

That section 2 of the Veterans' Preference Act of 1944 is amended by striking out the period at the end thereof and inserting a semicolon and the following: "(5) widowed mothers (if they have not remarried and were widows at the time of the death or disability of their ex-serviceman son or ex-servicewoman daughter) —

"(A) of deceased ex-servicemen or ex-servicewomen, who lost their lives while on active duty in any branch of the armed forces of the United States during any war, or in any campaign or expedition (for which a campaign badge has been authorized), or

"(B) of service-connected permanently and totally disabled ex-servicemen or ex-servicewomen,

if said ex-serviceman or ex-servicewoman was separated from such armed forces under honorable conditions" and (6) a mother of a deceased ex-serviceman or ex-servicewoman who lost his or her life while on active duty in any branch of the armed forces of the United States during any war, or in any campaign or expedition (for which a campaign badge has been authorized) or of a service-connected permanently and totally disabled ex-serviceman or ex-servicewoman, if (A) said ex-serviceman or ex-servicewoman was separated from such armed forces under honorable conditions, (B) the mother was divorced or legally separated from the father of such ex-serviceman son or ex-servicewoman daughter, and (C) said ex-serviceman son or ex-servicewoman daughter is the only child of said mother."

SEC. 2. Section 3 of the Veterans' Preference Act of 1944 is amended by striking out "and (3)," after the second comma in the first sentence, and inserting the following: "(3), (5), and (6)."

[PUBLIC LAW 385—80TH CONGRESS]

[CHAPTER 516—1ST SESSION]

[H. J. Res. 205]

JOINT RESOLUTION

To authorize the Secretary of Agriculture to sell timber within the Tongass National Forest.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That "possessory rights" as used in this resolution shall mean all rights, if any should exist, which are based upon aboriginal occupancy or title, or upon section 8 of the Act of May 17, 1884 (23 Stat. 24), section 14 of the Act of March 3, 1891 (26 Stat. 1095), or section 27 of the Act of June 6, 1900 (31 Stat. 321), whether claimed by native tribes, native villages, native individuals, or other persons, and which have not been confirmed by patent or court decision or included within any reservation.

SEC. 2. (a) The Secretary of Agriculture, in contracts for the sale, or in the sale, of national forest timber under the provisions of the Act of June 4, 1897 (30 Stat. 11, 35), as amended, is authorized to include timber growing on any vacant, unappropriated, and unpatented lands within the exterior boundaries of the Tongass National Forest in Alaska, notwithstanding any claim of possessory rights. All such contracts and sales heretofore made are hereby validated.

(b) The Secretary of the Interior is authorized to appraise and sell such vacant, unappropriated, and unpatented lands, notwithstanding any claim of possessory rights, within the exterior boundaries of the Tongass National Forest as, in the opinion of the Secretary of the Interior and the Secretary of Agriculture, are reasonably necessary in connection with or for the processing of timber from lands within such national forest, and upon such terms and conditions as they may impose.

(c) The purchaser shall have and exercise his rights under any patent issued or contract to sell or sale made under this section free and clear of all claims based upon possessory rights.

SEC. 3. (a) All receipts from the sale of timber or from the sale of lands under section 2 of this resolution shall be maintained in a special account in the Treasury until the rights to the land and timber are finally determined.

(b) Nothing in this resolution shall be construed as recognizing or denying the validity of any claims of possessory rights to lands or timber within the exterior boundaries of the Tongass National Forest.

Approved August 8, 1947.

